A Writing Career:
Pitching, Persisting, Getting Ahead, Getting Paid
and Staying Out of Trouble

New York City Passes Landmark Freelancer Law

What the Trump Presidency Could Mean for Writers
New York City Passes Landmark Bill to Protect Freelance Workers

By Brandon Reiter

Let’s start with some good news. On October 27, New York’s City Council voted unanimously in favor of the “Freelance Isn’t Free Act,” providing freelance workers with an unprecedented set of legal protections against client nonpayment. Under the bill, anyone hiring a freelance worker for a project valued at $800 or more over a four-month period will have to agree, in writing, to a contract that clearly outlines the scope of the work, the agreed-upon rate, the method of payment, and the payment deadline. Employers will be required to pay their freelance workers in full no later than 30 days after the paid-on date. Just like freelancers pay their monthly phone bills, cable bills, rent or mortgage. The bill, signed by Mayor Bill de Blasio November 16, will go into effect in April.

The legislation is the first of its kind—a milestone for freelancers’ rights and the first serious challenge to the inequities of the Gig economy. While the workforce of the past consisted mostly of employees who were or could be protected by unions—a significant segment of today’s workforce is made up of independent contractors. Current estimates of the freelance share of the market range from 15 to 30 percent, with the expectation of continued expansion, placing freelancers in a unique position to capitalize on shifts in the economy, but also at the risk of being short-changed.

According to a 2015 survey by the media tech company Contently, the median income for full-time freelancers was $20,000 to $30,000. Compare that to the annual mean wage in the U.S. of $47,230 and it’s clear that freelancers are not being paid a fair share—and in many cases they are not being paid at all. Meanwhile, the Freelancers Union, a 300,000-member national group based in New York and the driving force behind the Freelance Isn’t Free Act, reports that freelancers—a cohort made up of a wide range of independent professionals in the creative arts, including non-staff journalists and authors, the tech industry, designers and consultants—contributed a trillion dollars to the national economy.

The additional finding by the Freelancers Union, that seven out of ten freelancers experience difficulty collecting payment at some point in their careers—and are stiffed an average of $6,000 annually—will come as no surprise to many writers. One of the Guild’s most significant advocacy efforts in the last two decades was the $18 million class action suit we filed alongside the American Society of Journalists and Authors, the National Writers Union, and 21 freelance writers in 2000, on behalf of thousands of freelance writers who had been paid by major newspapers and magazines for one-time use of their articles, and then saw their work swept into electronic databases without further compensation. (The case was settled in the plaintiffs’ favor in 2005 but various court challenges have delayed final distribution for a decade.)

Over the last decade, prominent digital media outlets have had wholesale success in normalizing a comparable non-compensation ethic, peddling the gospel of “exposure” in place of a pay check in a very tight market for writers. The Huffington Post, which is hugely profitable by any standards (the company, which was sold for $315 million in 2013, generated revenues of $146 million in 2015) has long been viewed as one of the more egregious and unrepentant offenders when it comes to making money with free “content” donated by writers. In fact, the best thing one might say about Huffington’s practices is that they were no secret.

The popular website Vice, which began as a print magazine, was better known as a bait and switch outfit when it came to writing for its website. In an article published by the Columbia Journalism Review in August 2016, Yardena Schwartz described a pattern of deception and stonewalling—publishing freelancers’ work without paying for it, offering assignments that were later rescinded, and seeking out fixers for help with their documentaries only to cut them off when the issue of payment was broached.

To say that freelance writers should never work for free would be an oversimplification, especially where those just entering the industry are concerned. No question, the benefits of writing for free some-

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ABOUT THE COVER ARTIST

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SHORT TAKES

Campus Bookstores Mix It Up

Faced with federal, state and institutional budget cuts, soaring textbook prices, and a print-resistant generation of students, college bookstores have been rethinking how they do business for some time. In a 2014 survey, 65 percent of students said they had decided against buying a textbook because it was too expensive, and 82 percent said they felt they would do better in their studies if course textbooks were available free online and buying a hard copy were optional.

To meet these expectations, campus bookstores are trying out a variety of new business models. Some schools, including the City Colleges of Chicago, Stony Brook University and American University, have moved course material sales online and are working with third-party vendors. Others are employing hybrid models, providing lower-cost books and materials online while selling services, branded merchandise, food and bestsellers in their brick-and-mortar stores to make up the difference. Companies such as Sidewalk, Chegg, RedShelf and Verba Software provide rental services and digital content strategies designed to lower costs for stripped-down campus bookstores.

Jonathan Shar, the chief marketing officer for Akademos, a company that provides virtual bookstores for colleges, told Publishers Weekly that the transition to digital platforms had accelerated. “In the last 18 months,” he said, “we’ve launched more virtual bookstores than in the entire history of the company.”

Many colleges are forming partnerships with corporations such as Barnes & Noble—which has long had experience in the academic market and currently operates 770 campus stores—and with Amazon. According to the National Association of College Stores, Amazon now owns 23 percent of the college textbook market. Students can compare prices on Amazon’s site and have the materials delivered to campus, but they don’t get the level of customer service they would in a physical campus bookstore. Meanwhile, schools partnering with Amazon receive a percentage of the sales on their website, an institutional bonus of the shift away from the brick-and-mortar model. Purdue University’s Robert D. Wynkoop told The Chronicle of Higher Education that since 2014, the university had made $1 million from the partnership. By the end of 2016, Amazon will have pickup locations in 17 schools.

One Bookstore Closes, Another Blooms

After 35 years as a gathering place for writers and readers in book-loving Cobble Hill, BookCourt, one of Brooklyn’s most successful independent bookstores, announced it was closing at the end of 2016. The online real estate magazine Curbed New York noted that the store’s “demise is unusual in that it wasn’t driven by rent hikes, even though Court Street, where it’s located, is one of the most expensive retail strips in the country.” The reason rent didn’t enter in is that BookCourt owners Henry Zook and Mary Gannett, who started out as renters, bought their patch of Brooklyn many years ago. The two recently sold the property for $13.6 million and plan to retire.

In an open letter, Zook and Gannett expressed their gratitude to their loyal customers. Acknowledging that the store’s closing will “leave a void in the neighborhood and industry,” they wrote, “We encourage everyone reading this to find and support other indie bookstores, here in Brooklyn or wherever you may be. While bookstores do close for various reasons, we want to remind you that many more are flourishing and your support is vital to their success.”

In this case there was a silver lining. The same day that BookCourt announced it was closing, bestselling author Emma Straub—a former BookCourt employee—announced that she and her husband, Michael Fusco, had secured initial funding to open a bookstore called Books Are Magic nearby. “A neighborhood without an independent bookstore is a body without a heart,” Straub wrote on her website. “And so we’re building a new heart.”

Supply Line

Television programs based on books and novels are a booming industry, and after several notable hits in 2016 (FX’s adaptation of Jeffrey Toobin’s Ride of His Life: The People v. O. J. Simpson being the ratings standout) there will be more coming this year. Online streaming platforms are continuing to ramp up their original programming while traditional broadcast and cable networks remain major players as well, creating a great demand for new source material that books are helping to fill. Some of the more notable shows debuting this year include: A Series of Unfortunate Events by Lemony Snicket (Netflix, January), Legion, based on a comic book character created by Chris Claremont (FX, February), Big Little Lies by Liane Moriarty (HBO, February), The Handmaid’s Tale by Margaret Atwood (Hulu, April), Midnight, Texas by Charlaine Harris (NBC, April), American Gods by Neil Gaiman (Starz, TBA), Sharp Objects by Gillian Flynn (HBO, TBA), and The Terror by Dan Simmons (AMC, TBA).

Ballots and Books

The word in the book business for much of 2016 was that sales were down because readers were just too distracted by the upcoming election
to sit still anywhere but in front of a television. Starting November 9, hope flickered once again as pundits and booksellers started recommending titles to console or inspire those suffering from electoral whiplash.

NPR’s Rachel Martin did a segment with Weekend Edition books editor Barrie Hardymon, who recommended four political power play novels—Hilary Mantel’s Wolf Hall and Bring Up the Bodies and Robert Graves’s I, Claudius and Claudius the God—along with Russell Hoban’s dystopic Riddley Walker and Geraldine Brooks’s Year of Wonders, about the bubonic plague.

On New York magazine’s list—“12 Books We’re Reading to Help Us Understand the Election Result”—were One of Us: The Story of a Massacre in Norway—and Its Aftermath by Åsne Seierstad, Ta-Nehisi Coates’s Between the World and Me, Wesley Lowery’s They Can’t Kill Us All: Ferguson, Baltimore, and a New Era in America’s Racial Justice Movement, and George Packer’s The Unwinding: An Inner History of the New America.

Meanwhile, the American Booksellers Association (ABA) reported booksellers around the country were “embracing their roles as sources of information and expression and as a community nexus.” A Facebook display of children’s books by Jennifer Green, owner of Green Bean Books in Portland, OR, included the message: “Diversity makes us all better! We challenge you to read a book about someone very different than yourself.”

“We had a lot of people coming in the weekend after we put it up just to thank us for doing it and buying a lot of books on the display,” said Green. “I think people needed a place to go that felt safe, and I think bookstores really heard that.”

In a conservative neighborhood in Vancouver, WA, Vintage Books owner Becky Milner told ABA, “We always made it a point not to talk with customers about politics or religion, but we’ve kind of changed our tune on that a little bit nowadays…. We just think it’s time to stand up and say let’s all think about the basic things we care about, like being good to each other, don’t discriminate, be welcoming to everybody.”

Left Bank Books in St. Louis, which launched a “Ferguson Reads” program in 2014, offered both a children’s list of recommended titles (Maya Angelou’s Life Doesn’t Frighten Me, Faith Ringgold’s We Came to America) and an adults’ list (J. D. Vance’s Hillbilly Elegy, Carol Anderson’s White Rage: The Unspoken Truth of Our Racial Divide.)

How much of a boost the election gave any of these authors is anyone’s guess, but one author did very well indeed that first week. Within 24 hours of the final vote count, CBS reported that Donald Trump’s The Art of the Deal had “soared from No. 1,107 to No. 24, while Great Again went from 5,340 to 172.”

A week before the inauguration, after Congressman John Lewis of Atlanta announced that he would not be attending Trump’s swearing in, then President-to-be Trump responded with a pair of angry tweets. Within hours Lewis’s graphic novel trilogy, March—the third volume was awarded the National Book Award last November—shot up to No. 1 on Amazon. His Walking with the Wind: A Memoir of the Movement (with Michael D’Orso) rose to No. 3, book one of the March Trilogy was No. 4, and all three had sold out on Amazon’s site by the end of the weekend.

President Obama, Bellestrist-in-Chief

It could be a while before we see a president committed to the written word the way Barack Obama was, as both a reader and a writer.

Shortly before leaving office in January, Obama sat down with Michiko Kakutani, book critic for The New York Times, to recount the formative role books played in his life and presidency. He spoke of how the works of fellow leaders—Lincoln, King and Gandhi among them—gave him a sense of solidarity at times he might otherwise feel isolated. He also singled out works of fiction like the Chinese writer Liu Cixin’s sci-fi novel The Three-Body Problem, and The Underground Railroad by Colson Whitehead.

Once out of office, the author of Dreams from my Father and The Audacity of Hope told Kakutani he plans to take out a yellow legal pad and begin work on his presidential memoirs. “He has a writer’s sensibility,” Kakutani wrote, “a novelist’s eye and ear for detail, and a precise but elastic voice capable of moving easily between the lyrical and the vernacular and the profound.”

One imagines he won’t be employing a ghostwriter.

Publishing Trends Identified at Digital Book World Conference

Digital Book World, an annual conference on publishing strategies and the digital marketplace, was held in New York City from January 17–19. In the conference keynote, Macmillan CEO John Sargent forecast that 2017 will see a shrinking of the digital publishing market. Sargent identified a focal point of digital change in the higher education sector, which saw a 12% drop in net sales in 2016 despite the fact it usually grows every year. Current higher-ed offerings, Sargent noted, are too expensive for many students, and the market itself is inefficient, leading him to predict higher-ed as one market where the shift to digital could increase revenues and profits.

As if on cue, British-owned educational publisher Pearson issued its fifth profits warning in four years the next day. The textbook giant also announced a plan to sell off its stake

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From the President

How Much Will You Pay for This Book?

BY ROXANA ROBINSON

I’ve been doing research for a new book lately, and I’ve hired a graduate student to help me. Last winter I was drawing on a Civil War book, and I wanted my assistant, Abigail, to be able to read it too. The book, *Reminiscences of Confederate Service*, by Francis Warrington Dawson, had been privately published in the nineteenth century, and then published more recently for the general public by LSU Press. I asked Abigail to buy a copy for herself; I was sure it would be easily available through Amazon.

I checked to see. On January 3, 2016, Amazon offered me a long list of sources for new and used paperbacks. A used copy of the paperback, in good condition, was $37.50. A used copy that, I was warned, might contain highlighting, was $44.58. I was surprised by the high prices. I emailed Abigail and told her not to buy a copy. I didn’t want her to have to pay so much.

She said she’d already ordered one. Hers had cost less than ten dollars.

Where did you find it? I asked.

Amazon, she said.

I went back and looked again. The sites offering the books sounded like wholesalers, and all their prices were identical, or nearly so. They were probably jobbers, who had bought their copies cheap when the publisher cleared stock from its warehouse. But they were offering it at sky-high prices. These were the sources that Amazon offered me. So where had Abigail found her book?

On January 11, at 9:52 AM, the price of a new paperback was $56.97. On January 17, at 12:08 am, the used paperback was $47.74.

Curious, I went to the LSU Press site. On that same day, January 17, I found the book was still in print. A new paperback was $16.95. So why hadn’t Amazon included LSU Press—which in fact distributes through Amazon—in the sources it showed me?

We know what Amazon has done to the American book market. It has deliberately forced down the prices of all books by demanding steep discounts from publishers. By choosing to lose money on every low-priced book they sell, they have artificially depreciated book prices until the public has come to believe that books actually have very little monetary value. They’ve lowered prices to a point at which bricks-and-mortar stores can’t compete, and many of those have gone out of business.

Amazon has become a monopoly as a seller of books, but that in itself is not against the law. Laws change, but at the moment it seems that being a monopoly isn’t in itself illegal, as long as you don’t cause harm to your customers. You can engage in price-gouging and predatory pricing, causing economic harm to your competitors, as long as you give your customer lower prices and faster delivery than your competition does.

But those prices I was shown for *Reminiscences* were clearly not the lowest prices available. Amazon was offering me the book for very high prices, at the same time that they were offering it to Abigail at a very low price.

I rarely use Amazon, but I do so when I’m looking for books for my research. Since they’ve taken over the Used and Antiquarian markets, I’ve had to go to them for these books, and I’ve been known to pay a good deal for a hard-to-find volume. Amazon, of course, remembers this: their algorithms keep track of everything. They know I’ve been known to pay $50 or $60 for a book, so I guess they thought they’d show me that sort of price.

This is what’s called price-discrimination. It’s a pricing strategy based on the fact that different people will pay different prices for products. We all understand that this is true in theory: of course you know that you might be willing to pay more for shoes than your neighbor does. But are you willing to pay more than your neighbor does for the same pair of shoes?

Price discrimination isn’t illegal, but how does it make you feel about Amazon? Now, every time you’re about to click on “Buy,” you may wonder if someone else is getting the same book for less. Why should you pay more?

I kept checking the prices on Amazon. And Amazon kept checking on me. After two weeks, they had noticed that I wasn’t buying the book for $57.27. Suddenly, on January 17, a used paperback was only $3.88. Maybe they’d decided that I wasn’t going to be a buyer at that level, so they thought they’d offer me a different deal.

It’s the algorithms, I suppose, hard at work. It’s the algorithm that decides what the price will be, at all those wholesalers. There may not be any “real” price,
From the Home Office

Dear Authors Guild Members,

By the time you receive this winter 2017 edition of the Bulletin, the tumultuous and unsettling year of 2016 will be history. Here at the home office, we’re looking forward to the challenges and opportunities 2017 is certain to bring. Paradoxically, writing for one’s livelihood in some ways has never been harder (it’s harder to earn money as a freelancer, harder to get decent book advances, and the work of marketing and promotion falls more and more on authors’ shoulders) or easier (anyone can publish online, and any author can directly reach her readers).

One indelible lesson of the year: in this age of false news generated in 140-character bites, writing book-length works is more important than ever.

Through the history of the printed word, all great societies have one thing in common: they have valued their writers. Writers help us understand our world better, both our present and our past; books help us assemble truths from contemporary culture and from history and they guide us into our future. They tell us who we are, and who we can be. As writers of both fiction and nonfiction, you—all of you—introduce new ideas into the culture and give us new language to discuss and debate them; you tell the stories and provide the information that helps us both understand ourselves and relate better to others. Your books help make sense of our collective experience. They make us think.

The founders recognized that to be successful, a democracy needs an informed citizenry, and to ensure that its people were sufficiently informed, the United States needed its own class of writers, thinkers, and artists, not beholden to government or private patronage. (It’s hard to imagine, but there were few published American writers at the time, in large part because the copyright protection afforded by the colonies was so new.) And so our founders enshrined copyright law in the Constitution, specifically to ensure that authors would always have a federal right to earn money from their writing.

There are times, even in a democracy, when writers have a particularly important role to play; and this appears to be one of those times. As Thomas Friedman says in his new book, Thank You for Being Late: An Optimist’s Guide to Thriving in the Age of Accelerations:

Our democracy can work only if voters know how the world works, so they are able to make intelligent policy choices and are less apt to fall prey to demagogues, ideological zealots, or conspiracy buffs who may be confusing them at best or deliberately misleading them at worst. As I watched the 2016 presidential campaign unfold, the words of Marie Curie never rang more true to me or felt more relevant: “Nothing in life is to be feared, it is only to be understood. Now is the time to understand more, so that we may fear less.”

Now, we find ourselves in the “post-truth” era, where “truth” can be fabricated by zealots, candidates, politicians, and even other countries trying to influence our political discourse, and then spread like wildfire through the channels of social media. What does that mean for our near and long-term future? How can we fight back?

Writing has always been and remains an utterly effective way to fight against untruths. If falsehood is a way to subjugate, then critical thinking is a path to freedom. Being able to distinguish fact from falsehood is an essential tool for citizens in a democracy, and writing and reading are the foremost ways to teach the critical thinking tools necessary to make these judgments.

Today as much as ever (and maybe more so given the recent uptick in fake news, misinformation, and the tendency to find ourselves in information silos), our citizenry needs the full access to truth that only writers—of nonfiction, fiction, and poetry alike—can provide.

Here at the office we’ve been doing what we can to make sure you can keep doing your job in an opti-
mal environment. As part of the Copyright Alliance’s Transition Working Group, for example, we’ve been working to ensure that the President-Elect’s transition team has information about the best candidates for copyright-related posts—individuals who understand the importance of allowing authors to decide when, how and at what price their works are distributed by others, as well as to ensure that the incoming administration realizes the importance of creators to our economy and their need for protection.

We continue to work with Congress on legislation that will help creators and authors specifically, including the creation of an independent Copyright Office that will promote authors’ rights, the creation of a small claims copyright court to resolve infringement claims inexpensively and efficiently (the need for which any author who has had to give up a claim of infringement because of the cost of litigation will readily understand), and to address the threats the creative industries face from digital piracy. In addition, we are gaining ground and allies in our efforts to educate lawmakers about the realities and dangers of continuing to allow supersize tech platforms to reap the bulk of the financial benefits from creative content.

As for your part, in today’s culture of misinformation your work is more important than ever. So please keep writing. Own your voice. Fight back by letting the truths in your stories, poems and essays speak for themselves.

Onwards,
Mary Rasenberger
Executive Director

The Guild Joins the Media Coalition

The Authors Guild, in keeping with its cornerstone commitment to support free speech, has joined the Media Coalition, a nonprofit association dedicated to protecting First Amendment rights. The coalition, founded in 1973, looks to provide a unified voice for all stakeholders whose work depends upon First Amendment protections. It advises legislatures on pending legislation, files legal challenges and amicus briefs and advocates publicly for preserving free speech. Since the Guild will be particularly engaged in issues of freedom and diversity of expression in the coming year, our coalition membership should prove timely and invigorating.

In becoming part of the Media Coalition, the Guild joins the literary organizations American Booksellers for Free Expression (a subgroup of the American Booksellers Association), the Association of American Publishers, and the Freedom to Read Foundation, as well as organizations representing other media, such as film, software and comic books.

The work of the Media Coalition is exemplified by its recent defense of a local bookstore owner in Saugerties, New York. Brian Donoghue, the owner of the Inquiring Minds Bookstore, had put up a display in his window featuring books about then-presidential candidate Donald Trump and about the history of Nazi Germany, a banner with Trump’s name over a swastika, and a quotation about the dangers of not speaking out against hate. After Donoghue received zoning citations, the Media Coalition Foundation provided him with an attorney who informed the village that the citations were in violation of Donoghue’s First Amendment rights, and ultimately, he was able to keep the display up through Election Day, after which he decided to remove it.

The Authors Guild has worked with the Media Coalition Foundation before, most recently in July when both organizations joined a friend-of-the-court brief supporting a First Amendment challenge to an Idaho law prohibiting the clandestine recording of factory farming practices. The brief argued that the law is an unconstitutional restriction on free speech and, specifically, on investigative journalism. The case is before the U.S. Court of Appeals for the Ninth Circuit and has yet to be decided.

In the face of what appears to be an increasingly hostile environment for journalists, it will be important for authors, publishers and distributors of all types of media to vigorously protect their First Amendment rights. The Guild looks forward to being a part of the Media Coalition as we continue to protect freedom of expression for our members and authors everywhere.
The Authors Guild
Q&A: Paul W. Morris
AG Vice President of Programming and Outreach

The Guild’s newest staff member joined us in early November, direct from PEN America, where his most recent job was as Director of Literary Programs. In December, he sat—roughly speaking—for an interview with Isabel Howe, Executive Director of the Authors League Fund and Bulletin contributor.

Welcome to the Authors Guild. In November you joined us as vice president of programs and outreach. This is a new position for the Guild. What will your job entail?

Thanks. I’m really excited to be coming on board at this moment in time. There are so many wonderful works being published right now, online, in print, via e-books, etc. And there’s so much work to be done in service to these authors.

I’m energized and enthusiastic about supporting the Guild’s mission of advocating for writers’ rights and fair pay, not to mention free speech, which is something that everyone, not just writers, needs to be vigilant about these days. I think the conversation surrounding intellectual property will become increasingly relevant in the next few years. It feels as if we are still very much in the early stages of our understanding of IP, as the general public comes to terms with what it means to give away one’s content and what is at stake when we don’t place the necessary value on content. Writers and artists need to be on the front lines of that conversation, and the Authors Guild exists to guarantee that they will continue to be.

My immediate goal in the months ahead is to ensure the continued vitality of our membership and expand its range and diversity. Our members are our core, without whom we cannot be as vocal or effective in our advocacy work. I hope to expand our membership base with innovative outreach efforts to new and existing writing communities. I want to offer members multiple opportunities to come together and learn from one another as peers, and also to connect with publishing professionals.

We exist in a diverse and interdependent ecosystem, and although we are increasingly networked online, I still believe in the power of congregating in person. So I look forward to organizing live gatherings across the country, along with partnerships with other literary organizations and cultural institutions, bookstores, writing residencies and MFA programs nationwide.

Can you tell us a bit about your background? How did you come to work on the writers’ side of publishing?

Well, first off, I’m a lifelong reader and lover of literature. That’s in my blood. I wasn’t terribly social as a child, despite having siblings on either side of me. I preferred solitude to socializing and would often hole up in my room reading, my face stuck in a book on family vacations. My mother would joke that you needed a library card just to enter my room. (I still hoard books to this day.) I used to think I would be an English teacher so I could share this passion with my students. I had several influential teachers myself, who inspired and encouraged me along these lines. But I also loved the idea of being a writer, and I secretly thought I might become one, one day.

I didn’t end up teaching, and I only halfheartedly made a go at the writer’s life. I had some essays published while working on longer-term projects that I could never fully realize. Instead, I got into publishing, the result of a college internship. This paved the way for my first job in New York, as an editorial assistant at Viking Penguin. I bounced around as an editor for a decade, moving from books to magazines and back...
again, before ending up more squarely in nonprofit arts administration and community engagement—including at PEN America—working collaboratively with writers, editors and literary organizations to champion new writing and the love of reading. Any creativity that I might have put into teaching or writing now finds its expression in this type of work. If my passion for books and writing can be infectious, then I’ll be doing my job.

**How do you see your past jobs in publishing informing your work with the Guild’s membership?**

I count it as a true privilege to serve writers and the publishing community at large. I have met and befriended writers who were once my idols, and have immense respect for the discipline and vision it takes to be a writer. My admiration for their dedication to the craft fuels my efforts to advocate for them, and, especially, for emerging writers, who always need opportunities to advance their careers when they’re starting out. By putting that energy into benefiting the Guild’s members, fostering community and connections, I’ll be happy to have contributed to the distinguished history of the organization.

PEN America and the Authors Guild have an overlapping membership, but their respective focuses have been very different, historically. What experiences from PEN do you think will be most helpful in your work with the Guild?

The primary mission of PEN America, being a chapter of PEN International, is rooted in global human rights advocacy, which is essential work. The Guild’s mission is more focused on the practical life of professional writers, and U.S. writers, specifically. To that end, my experience in the publishing industry, both at PEN and during the decade preceding it, will guide me as I find new allies and partners to work with the Guild in protecting copyright and ensuring fair compensation. Generally, I would like to stay the course of my career arc by continuing to provide authors with more opportunities to sustain their professional writing lives.

**Along those lines, is there anything you will have to leave behind from your past job experiences?**

At PEN, I helped to elevate the prestige and relevancy of its large literary awards program, which honors books and literary achievement across multiple genres. Awards and prizes are wonderful occasions to recognize literary merit, and many organizations do that very well. However, it took an enormous amount of resources each year and often limited my ability to engage more fully with members’ needs, in terms of programs and advocacy opportunities. So, I am excited to have a more focused mandate now, namely, increasing visibility of the Guild’s mission for authors of all kinds, not only those considered to be “literary,” and supporting them at all stages of their careers.

**What existing Guild programs are you most enthusiastic about? What kind of new programming for members would you like to see us do more of?**

In terms of programming, I want to capitalize on the great work that has been going on all along, thanks to the Guild’s amazing staff. It’s very heartening to be working alongside such dedicated colleagues, and I look forward to collaborating with them to create a roster of events and programs that speaks to the needs of our members. The recent partnership with Electric Literature was a home run for the new Emerging Writer Membership level, which promises access to workshops, seminars, networking events and original content geared specifically for up-and-coming writers. Electric Lit is a fantastic online resource and digital publisher, and an excellent partner, so I’d like to bolster that relationship and others like it. Our recent “Answer Time” on Tumblr was wildly successful, and I hope we continue to find innovative ways to reach new readers using digital channels.

The slate of programs we have lined up for 2017 is impressive and ranges from webinars offering practical legal advice to a one-of-a-kind conversation between Chimamanda Ngozi Adichie and Ta-Nehisi Coates in February. I would like to add some networking events for writers and publishing professionals, specifically one with agents, who have proven to be key in terms of recruitment and helping communicate our mission to their clients. I’d also love to involve artists working in other disciplines and explore cross-disciplinary conversations. Writers take their inspiration from so many fields, and I think it would be illuminating to give them the opportunity to discuss influences beyond other writers.

I believe there is a balance to be struck between of-

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“I have immense respect for the discipline and vision it takes to be a writer. My admiration for their dedication to the craft fuels my efforts to advocate for them.”

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Continued on page 16
Same Old Song: Google Still Gobbling Up Books It Didn’t Buy to Improve Its Own Products

Google has been at it again. The Internet giant has been feeding a set of 11,038 romance novels and thrillers into a neural network and using them to teach its computers fluent, natural-sounding language, thereby improving its search results and conversational style. The books in question—self-published titles originally made available for free online, under licenses that forbade commercial use—were compiled by University of Toronto researchers for an unrelated project and copied wholesale by Google. In a September article in the *Guardian*, Richard Lea reported on the research Google is conducting, quoting several authors regarding the fact that Google neither asked permission to use their work nor offered to pay them for it.

“Is this any different than someone using one of my books to start a fire?” wondered Rebecca Forster, whose novel *Hostile Witness* was “borrowed” by Google. “I have no idea what their objective is. Certainly it is not to bring me readers.”

Authors Guild executive director Mary Rasenberger was quoted at length in the article, calling the Google sweep a “blatantly commercial use of expressive authorship” and making the case that the digital revolution should not come at the expense of authors’ rights to control uses of their work and to earn a living from those uses. “Why shouldn’t authors be asked permission, or even informed—not to mention compensated—before their work is used in this manner? There’s no doubt Google has the means to do so.”

Since the Supreme Court declined to review the Second Circuit’s fair use decision in *Authors Guild v. Google*, the Guild has expected to see more projects of this kind, which erode the exclusive rights specifically granted to authors in the Copyright Act. That’s why the Guild has been such a vocal advocate for a licensing-based solution for these types of new digital uses. A form of collective licensing for out-of-print books would let valuable research be conducted, but with the permission of authors themselves and under terms that could secure authors a much-needed revenue stream at a time when fair compensation for the use of their works seems to be harder to come by than ever.

“I take great pride in my craft,” Rebecca Forster told *The Guardian*, “and perhaps [my book] was chosen because of that. . . . Or perhaps it was chosen because it was there, because it was free?”

Guild Files Brief in Georgia State Digital Books Case

On December 9, the Authors Guild filed a friend-of-the-court brief supporting a group of academic publishers in the Georgia State University (GSU) copyright infringement case. The publishers sued GSU in 2008 for encouraging its faculty to provide students with free, unlicensed digital course packets containing excerpts (often full chapters) of copyrighted books. Earlier case law held that photocopying excerpts of books for course packs was not fair use. The GSU case is currently before the U.S. Court of Appeals for the 11th Circuit for the second time. In 2012, the district court held that most of Georgia State’s excerpt uses were fair, mainly because they were educational uses, and the court failed to find any market harm. On appeal, the 11th Circuit remanded the case to the lower court, which again found that most of the uses were fair. It is that decision that is now on appeal.

Among other things, the Guild’s brief made the case that the lower court, in deciding that many of those unlicensed uses were fair, failed to assess the harm these e-packets caused to the market for licensed and paid-for course packets. The brief focused on the harm to authors, namely lost licensing income. This is an extremely important case for the future of higher-educational licensing income.

Encapsulating the harm that the lower court’s decision could have, Authors Guild Council member T. J. Stiles, in a statement included in the brief, wrote: “I am a professional. If my profession is destroyed by the courts, then the public will get the very limited bounty of being able to read my existing work for free—which it can already do at any public or academic library—but it will get no further works from me.”

California Autograph Resale Bill Has Booksellers Worried

In an effort to combat the sale of fake autographs, the state of California has sowed confusion among bookstore owners who host in-store author signings. In September 2016, California governor Jerry
in Penguin Random House, the largest of the Big Five U.S. publishers, citing an “unprecedented decline” of 30 percent net revenues in its North American education business, according to a report in the Financial Times.

Later on in the opening day of the DBW conference, Jonathan Stopler of Nielsen, a firm that tracks book sales data from over 20 companies across the industry, estimated that 2016 e-book sales will show a decline of 16 percent from 2015. Nielsen also expects total 2016 trade publishing sales to be down a modest 1.3 percent, Stopler said. He noted, however, that sales remain particularly strong in the adult coloring book category, which exploded in the holiday 2015 season and remained strong throughout 2016 before slowing in the fourth quarter of 2016.
An Unprecedented Dismissal

In response to the removal of Register of Copyright Maria Pallante from her position on October 21, the Authors Guild posted two statements on its website. The first appeared on October 24; the second appeared on October 28. The two texts have been combined and edited for length here.

On October 21, Maria Pallante, the Register of Copyrights and Director of the United States Copyright Office, was abruptly removed from her post by the new Librarian of Congress, Dr. Carla Hayden, who had been sworn in a few weeks earlier. According to a statement issued by the Library of Congress, Dr. Hayden transferred Ms. Pallante to a newly created non-managerial position within the Library, Senior Advisor for Digital Strategy. Karyn Temple Claggett, an Associate Register, was appointed Acting Register of Copyrights.

We were disappointed to see Ms. Pallante go. She was a devoted leader of the Copyright Office, who launched several major initiatives during her tenure, including a full review of the Copyright Act to bring it into the 21st Century. She championed the modernization of the Copyright Office to better serve the evolving needs of digital-era Copyright Office constituents, and after a comprehensive study, recommended the creation of a small claims tribunal that would allow authors and other creators to bring small infringement claims inexpensively, without having to hire a lawyer.

Ms. Pallante displayed an uncommon willingness to comprehend and balance the positions of all copyright stakeholders. Especially important to the Guild was her conviction that, ultimately, the creative industries cannot thrive without respect for individual creators. Under Ms. Pallante, the Copyright Office embodied the principle that copyright exists to benefit the public by incentivizing new works of authorship, and that the rights of individual creators must be respected for robust creative ecosystems to flourish.

The Copyright Act now states that the Register of Copyrights is subject to the direction and supervision of the Librarian of Congress and that regulations established by the Copyright Office are subject to the Librarian’s approval. It is the Guild’s long-standing belief that the head of the Copyright Office should be responsible for issuing copyright policy, and it is Guild priority to push Congress to modernize the Copyright Office and give it greater political, budgetary and IT independence from the Library. In recent months, legislation has been introduced in the House that would modernize the Copyright Office and give it greater independence from the Library. The Guild has endorsed this bill and continues to support this concept. [See page 12.]

A week after Ms. Pallante’s departure, Executive Director Mary Rasenberger met with Dr. Hayden at the Library of Congress in D.C. to express the Guild’s concerns about the future of the Copyright Office and the selection of the next Register.

Ms. Rasenberger and Dr. Hayden spoke at length about the search for a new Register. Dr. Hayden gave her assurance that the process will be open and transparent.

It is the Guild’s long-standing belief that the head of the Copyright Office should be responsible for issuing copyright policy, and it is Guild priority to push Congress to modernize the Copyright Office and give it greater political, budgetary and IT independence from the Library.
status and independence it merits given the crucial role copyright plays in our economy. We will fight to ensure both that creators are represented in the search for the next Register of Copyrights and that the Librarian choses a Register who understands the utmost importance of creators in the copyright ecosystem.

As it happens, the search for a new Register of Copyrights has already begun. In an unprecedented move, however, the Library of Congress first sought public input on the qualifications for the incoming Register and the issues he or she should focus on. While it is highly unusual for a government agency to solicit public input on the qualifications of a government appointee, the Guild encouraged members to participate in the survey in order to keep the interests of creators at the fore throughout the process. Thanks to all members who submitted comments.

In the interim, we are pleased that Ms. Temple Claggett, Associate Register of Copyrights and Director of Policy and International Affairs for the United States Copyright Office, has agreed to serve as Acting Register while the search for a permanent replacement is underway. Ms. Temple Claggett is an astute and experienced copyright lawyer and manager and an excellent choice to lead the Copyright Office through this period of transition. We look forward to working with her.

Maria Pallante, former Register of Copyrights, to Head AAP

The Authors Guild welcomes the appointment of Ms. Maria Pallante, the recent Register of Copyrights, as President and CEO of the Association of American Publishers (AAP). In her long and distinguished record of public service, Ms. Pallante had demonstrated a commitment to advancing the rights of creators. While serving as Register from 2011 to 2016, among her many accomplishments, Ms. Pallante launched a comprehensive review of the Copyright Act to identify areas of need in the existing legal and regulatory system, championed modernization programs that gave the Copyright Office resources to meet rapidly evolving technological demands, and introduced author-friendly proposals such as the small claims tribunal plan. Ms. Pallante has been a supporter of the rights of individual creators throughout her career, including stints at the Authors Guild and National Writers Union. We look forward to working with her in her new position to address the challenges facing the author and publishing communities.

A National Digital Library Authors Would Welcome

In response to an article in The New York Review of Books by cultural historian Robert Darnton, urging the creation of a national digital library to be housed in the Library of Congress, Executive Director Mary Rasenberger submitted the following letter to the Review, outlining a framework for preserving copyright protections for authors.

November 10, 2016

To the Editors:

The Authors Guild, the nation’s largest and oldest society of authors, agrees with Robert Darnton, in “The New Hillary Library?” (October 27), that a national digital library is both necessary and overdue. Authors share the dream of digitizing our nation’s literary heritage, but we must not ignore copyright in the process. Copyright is essential to authors and the future of literature; it allows authors to earn a living from writing, ensuring that they can keep writing. A national digital library must preserve authors’ ability to earn a fair return from their work.

Instead of building a national digital library by upending copyright, as Darnton proposes, there are solutions that will permit the type of public access Darnton describes, without undermining copyright’s incentives.

First, the Library of Congress, because of its status as our national library, is entitled to free copies of all U.S. published books; and for certain electronic materials, it allows access through secure on-site terminals. The Library could designate premises in other libraries around the country where users could access electronic materials from the Library’s collection. Minor legislation would allow the Library to digitize the collections and make them available for on-site access at the designated libraries.
Second, a collective licensing system for books should be created to allow libraries to digitize and make books available, while compensating authors and publishers for those uses. Collective licensing systems are membership-based rights holder organizations formed to collect and distribute fees owed to rights holders, so that users don’t have to negotiate licenses with each rights holder. They already exist in many other nations and could easily be implemented in the U.S. The compensation collected for authors and publishers should be kept low enough to encourage libraries to make use of the licenses.

A model that would work particularly well for mass digitization projects is an extended collective licensing system, where a law is passed to extend the voluntary agreement reached among the collective to nonmembers among the same class of rights holder. This allows the collecting society to collect fees from libraries on behalf of all authors, unless an author expressly requests that it not do so.

Short of an extended collective license, private licensing regimes, though less comprehensive, are already distributing funds. In the two decades since the Authors Guild launched the Authors Registry, for example, it has distributed over $30 million in secondary royalties from foreign countries to over eight thousand authors.

Last, we take issue with Darnton’s suggestion that there is no market for out-of-print books. On the contrary, many platforms have arisen that make it easy for authors to sell titles whose rights they’ve reclaimed, and these have proven an important source of revenue for many authors, at a time when other sources of income are dwindling. Any responsible digitization project must be carefully tailored to avoid interfering with these markets.

What we need is a national digital library that does not simply rely on fair use, but fairly compensates authors for the use of their works—a library that benefits all parties: the writers and publishers who produce the books it consists of; the libraries who do such important work in carrying the torch of literacy; and most important, the reading public.

“Authors share the dream of digitizing our nation’s literary heritage, but we must not ignore copyright in the process.”

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Bill to Protect Freelance Workers

Continued from page 2

times outweigh the loss of immediate income. But the Authors Guild believes the practice of media websites making money off of writers’ work and not paying them is shameful and helps no writers in the long run. Where possible, it is better to write for, and so encourage, one of the online publishers that do pay fairly. To find out who generally pays what, visit one of the several websites that post the rates of online publishers. [See box, page 24.]

Meanwhile, with the passage of New York’s Freelance Isn’t Free Act, the prospect of fair pay and fair terms for freelancers in all professions has been given a major boost. The New York victory is a testament to what can be accomplished when freelancers stand together, and the expanding freelance community is poised to become a powerful political constituency. It’s time to take this legislation into other cities and online, to ensure that freelance workers’ contributions to the economy are reflected in their employment and payment practices as well.

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Guild Comments on Deposit of Online-Only Works

On August 18, in response to a request for comments, the Authors Guild filed a statement with the United States Copyright Office on the question of whether online-only books should be required to be deposited with the Library of Congress.

Currently, all print books published in the United States must have two physical copies of the best edition of the work deposited with the U.S. Copyright Office for the use of the Library of Congress; books published only in electronic format, however, are exempted. Since online-only books are an important and growing part of our nation’s literary output, we took the position that they should indeed be eligible to be part of the collections of our national library. Because of the sheer volume of online-only titles published every year, however, and the burden that mandatory deposit of those titles would place on independently published authors, we recommended that such books not be required to be deposited with the Library of Congress, unless specifically requested by the Library.
On December 7, 2016, writer and journalist Douglas Preston, founder of Authors United—the grassroots group formed to protest Amazon’s treatment of authors in its 2014 dispute with publisher Hachette Book Group—contacted his group’s supporters to announce that Authors United would be joining forces with the Authors Guild Foundation to strengthen the Guild’s advocacy for a competitive and diverse publishing ecosystem.

“Authors United was an ad hoc group formed to give voice to the many writers harmed by Amazon’s retaliation against authors during the Hachette dispute,” said Preston, a member of the Authors Guild Council. “It was never my intention to run the organization forever. Although the dispute was resolved a while ago, it was part of a much graver situation that is not going away. There are many threats to authors’ livelihoods in the new publishing economy: an unfair marketplace, rampant Internet piracy, the ‘information wants to be free’ lobby and their dot-com corporate partners, and threats to the free flow of ideas. I’ve asked the authors of Authors United to throw their support behind the Authors Guild, either by joining or making a contribution. With its one hundred–year history of advocacy, the Guild is the only organization out there with the resources, experience and energy to fight for authors’ rights—and to defend the literary culture of our country.”

“The Authors Guild’s nine thousand members are grateful for Doug’s efforts to band together authors and to stand up for their rights,” said Authors Guild president Roxana Robinson. “We welcome the writers who made up Authors United. We share their goals, and we’ll continue our fight until we see the changes needed to ensure that authors can continue to produce the books that contribute so richly to our culture and our democracy.”

I just finished Nicole Dennis-Benn’s *Here Comes the Sun*, which is a stunning debut. Her characters have these utterly original voices, so fully realized that I continued to hear them in my head a week after I finished the book. It’s a remarkable novel, and I would highly recommend it as a gift this holiday season. I’m also a huge Neil Gaiman fan, and am eagerly anticipating a galley of his new one, *Norse Mythology*, landing on my desk in the next few weeks. That will be my winter reading for sure, along with Colson Whitehead’s *Underground Railroad* and Matthew Desmond’s *Evicted*. The past year was a great year for books, important books, and it’s so hard to choose these days. Definitely not a bad problem to have—now I just need to carve out the time.
What the Trump Presidency Could Mean for Authors

Immediately after the election, the Authors Guild received a number of inquiries about what the Trump administration might mean for authors and the Guild’s advocacy efforts. In response, we’ve been exploring the possible repercussions for the interests of writers, journalists and freedom of expression. Here’s what we’ve learned so far regarding where the president-elect might stand on some of the issues affecting working authors. The state of affairs changes quickly in the post-inauguration weeks; the information below is correct as we took the Bulletin to press, but readers are advised to check the Authors Guild website and our e-mail Newsletters for updates.

Freedom of Speech

On the campaign trail and since the election, President Trump has shown little respect for the profound importance to our democracy of freedom of speech, freedom of the press, media access and journalists. Along with journalists and other free speech advocates, we are alarmed by Trump’s often-expressed desire to suppress critics. The Guild will continue to work with other organizations in the crucial fight to protect and ensure access to the White House and government agencies for all accredited journalists. We will also support the reintroduction and passage of a bipartisan federal free speech bill—the SPEAK FREE Act—and work to prevent Trump from vetoing it. The legislation, based on similar laws in more than half of our states, would allow federal courts to dismiss unfounded lawsuits filed solely to punish people for speaking out. It just so happens that this type of lawsuit (known as a “strategic lawsuit against public participation,” or SLAPP)—as well as the threat of such a suit—has been a favorite tactic in Trump’s business dealings.

Expect to see an uptick in our free speech advocacy. Some of our sister organizations, such as PEN America and the National Coalition Against Censorship, focus primarily on freedom of expression, and, while supporting their efforts, we have let them do much of the heavy lifting on these issues. But if any of Trump’s threats against journalists’ freedom of expression materialize, directly challenging such threats will become a core part of our work in fulfillment of our 100-year-old mission.

Trump’s Relationship with the Tech Sector

Google’s especially cozy relationship with the government and its remarkable influence on copyright policy (particularly in its efforts to limit copyright protection) appears to be coming to an end. Speculating on how Trump might treat the tech sector generally, Alex Byers of Politico wrote: “Donald Trump is heading to the White House openly hostile to many of the tech industries’ top priorities in Washington, after a campaign in which he urged a boycott of Apple . . . and traded barbs with Facebook CEO Mark Zuckerberg. And that means the tech sector faces a grim change from the privileged status it enjoyed in Washington during the Obama years.” That said, the tech sector may yet find a way in to the administration. Indeed, on December 14 the Trump team met with corporate technology executives—including representatives from Amazon, Google, and Facebook—where Trump struck a conciliatory tone with companies that have been willfully ignorant of, if not openly hostile to, the interests of creators. The meeting was organized by Peter Thiel, venture capitalist and Facebook board member, who staunchly supported Trump during the campaign and joined his transition team shortly after the election.

Given the lack of alignment between Trump’s stated positions and what many appointees have been saying in their hearings, the copyright and tech-related policies of the Trump administration may depend more on who is appointed to key intellectual property positions, including the Directors of the U.S. Patent and Trademark Office and the Office of Science and Technology Policy, and the Intellectual Property Enforcement Coordinator. Since Trump has focused mostly on Cabinet-level nominees, no one has yet been nominated for these positions. Cabinet-level appointees likely to have an impact on the IP issues include the U.S. Trade Representative (nominee Robert Lighthizer), the Secretary of Commerce (nominee Wilbur Ross). The new Register of Copyrights, Dr. Carla Hayden, could also shape the administration’s approach to negotiating the copyright-tech balance. [See pages 13–14.]

Net Neutrality

It is possible that net neutrality (the principle that all traffic on the Internet should be treated equally), which is enshrined in FCC regulations recently upheld by a federal appellate court, could be in danger. In a 2014 tweet, Trump called the regulation of Internet traffic “an attack on the Internet” and a “top-down power grab” by the Obama administration. Trump transition team adviser Jeffrey Eisenach underscored
Trump’s deregulatory stance when he recently said on C-SPAN, “Taking his broader views on regulation into account, you would expect him to appoint to the FCC [a chairman] who would be inclined to take less of a regulatory position.” As of press time, no candidates have been announced, but reports have suggested that many at the FCC, as well as Eisenbach, believe the next Chairman will be one of its current Republican commissioners and will subscribe to a deregulatory approach.

Supreme Court Vacancy

A Trump appointee to the Court would reshape its composition, of course, but any partisan aspects of his appointment won’t necessarily affect the outcome of copyright cases that may reach the high court, as copyright is essentially a nonpartisan issue.

Trans-Pacific Partnership (TPP)

This ambitious, multinational free trade deal would offer rightsholders better cross-border protections for their intellectual property across the 12 Pacific Rim nations involved. Trump ran on his opposition to the trade agreement (and all of our trade agreements starting with and including NAFTA), and has not yet changed his tune on this, so it’s likely that we will see the U.S. pull out. Trump’s nominee to serve as U.S. Trade Representative, Robert Lighthizer, has been critical of free trade and would appear likely to support Trump’s avowed opposition to TPP. However, many other Trump appointees, including nominees Wilbur Ross (Secretary of Commerce), Rex Tillerson (Secretary of State), and Gary Cohn (Director of National Economic Council) have publicly advocated for the TPP, so there could be some tension on this issue within the incoming administration.

The Affordable Care Act

Authors Guild members have already been in touch with the office with concerns that their insurance under the Affordable Care Act would be revoked, asking whether the Guild would be able to offer health insurance again through a third-party provider if the Affordable Care Act is indeed dismantled. The Senate has already taken a first step toward repealing the Affordable Care Act (ACA) with a narrow majority vote in the budget reconciliation process, instructing the applicable House and Senate committees to begin drafting legislation. As of this writing, it appears that Trump and the Republican leadership understand that taking health care away from 20 million Americans will not fly and they need to enact a replacement, but it is unclear what that replacement will look like. Trump has said that his team has already developed a new health care package to replace the ACA and they are just putting the finishing touches on it. Trump claims that everyone will have insurance under his plan and that people covered under it “can expect to have great health care. It will be in a much-simplified form. Much less expensive and much better.”

The Authors Guild will be keeping a close eye on the legislation as it moves forward. It is unlikely that any of the existing insurance plans under the ACA will be terminated immediately or that any changes will take effect right away.

In the meantime, many authors have reported in recent months that they have had trouble getting or paying for insurance under the ACA, and the Authors Guild has already begun looking into alternative, affordable health insurance plans for our members. (The Authors Guild provided health insurance to members until 2010, when our insurance provider discontinued the program due to the high costs under the ACA.) We are hopeful that we will be able to find and provide our members with affordable insurance in the next year whether or not the ACA is dismantled, but we will have to see how the market shakes out.

Trump’s Position on Intellectual Property

During the campaign, Trump said little about where he stands on intellectual property generally, but given that much of his wealth has been accumulated through intellectual property (his brand, identity and TV show), we’d expect him to be sympathetic with rightsholders. Perhaps the closest indication Trump has offered as to how he will treat intellectual property as president came during an August 8, 2016, speech outlining his economic plan, where he disparaged China’s “rampant theft of intellectual property” and underscored the importance of creative labor to the overall U.S. economy: “Enforcing intellectual property rules alone could save millions of American jobs. According to the U.S. International Trade Commission, improved protection of America’s intellectual property in China would produce more than 2 million jobs right here in the United States. Add to that the jobs that would be saved by cracking down on currency cheating and product dumping, and we would be bringing trillions of dollars in wealth and wages back to the United States.”

This approach was underscored by the U.S. Intellectual Property Enforcement Coordinator (IPEC)
The Writing Life: What Authors Need to Know

If launching a writing career is a daunting business—a test of talent and a leap in the dark—maintaining one is a continual juggling act, for even the most experienced authors. The Guild has long provided its members support in the survival realm. As the world of publishing continues to evolve, we will be upping our commitment with an increasing number of pieces on familiar topics and newer ones, for both emerging writers and members of long standing.

In recent months, we have collaborated with our friends at Electric Lit to produce a series of how-to articles demystifying the business side of writing. These pieces cover everything from finding an agent to financial management, tax tips and how to keep your work from landing in the slush pile. All are housed in our online Writers Resource Library, a curated collection available exclusively to Authors Guild members.

In this special section we offer two pieces from the Electric Lit collection, and three others that address issues of importance to all writers. Enjoy.

Going It Alone: Submitting an Un-agented Book

By Tobias Carroll

Writing a book is a challenge for any author, from someone working on his debut novel to a veteran scribe finishing her 20th book. But while finishing a manuscript represents an accomplishment, there’s an imposing task lurking in the distance: finding someone to publish it.

While having an agent can help, lacking one isn’t an insurmountable obstacle to publishing. A 2014 profile of William T. Vollmann noted that he had no agent for his first seven books. Some writers may prefer to deal directly with publishers, avoiding paying a percentage on any advances, and having a more direct immersion in the publishing process. My own experience, having two books released by independent presses in 2016, serves as an example that publication without an agent is an attainable goal.

Find the Right Publishers

If you are seeking publication without an agent, it helps to have a few things in mind as you begin the process. There are plenty of resources out there for writers, and using them correctly can be helpful as you make your way toward publication. But just as no two writers are alike, neither are any two books, and a strategy that works well for one of your peers might prove much less effective for your own work. Above all, your search for a publisher should be geared to the kind of writing you’re doing. If an independent press has an open call for submissions and its focus is horror fiction, it probably won’t be the ideal place for you to submit your memoir of traveling in Michigan’s Upper Peninsula.

Most of the publishers you’ll be researching will be independent presses or presses affiliated with a university. (Or you might look into an organization like FC2—Fiction Collective Two—which hold two contests annually for which writers can submit manuscripts.) Most big publishing houses will only accept work submitted by agents. There are rare exceptions, but by and large, the route you’ll be taking will be through a host of independent, university and academic presses.

Once you’ve narrowed your search to publishers that would be a good fit for your book, you’ll need to get materials ready to send out. Some publishers will consider proposals for works of nonfiction. The specifics vary from publisher to publisher, but in general, you’ll want to have at least a sample chapter and a detailed outline ready. If you’re submitting a work of fiction—either a novel or a short story collection—odds are good that you’ll need to have a completed manuscript ready to go. Many independent publishers’ websites include information as to whether they take unsolicited manuscripts and, if so, what they’re looking for.
Get Your Manuscript Ready to Send

Whether you’re submitting a manuscript or a proposal, take some time to look it over. Make sure that your formatting is consistent, that you’ve selected a readable font and that nothing seems out of order. Your goal is to impress whoever is reading your manuscript; the last thing you want to do is distract this person from the story you’re trying to tell. Mismatched page numbers, fonts that change size from chapter to chapter and typos large or small can all distract a reader from your work, and make him more likely to reject it.

Some writers opt to hire a freelance editor to work on their manuscript before sending it out. (The Editorial Freelancers Association maintains a directory; some authors may offer similar services on their websites.) This can be helpful, especially if you’d like to get another set of eyes on your book and some potentially useful feedback. But just as you wouldn’t send your science fiction epic to a press that specializes in fishing memoirs, you should make sure that a freelance editor has worked on books similar to yours and can offer advice that’s useful and constructive.

An editor who is an expert in one genre might not be as qualified to offer advice about something in a completely different field. Make sure to ask about the books any editors you’re considering have worked on previously, what their own areas of interest are and if they can provide any testimonials or references. The right editor might be able to offer a perspective on your work that you’d never considered, benefiting it immensely—but finding that person can take a little extra time.

What Else Should You Send?

Before reaching out to editors and publishers, there are several materials you’ll want to have ready. Many of the people you’ll want to talk to will ask for some combination of this information before requesting a full manuscript:

- Short excerpts from your manuscript. Some editors will want to see the first 5 pages, others might want the first 10, and still others the first 20 or 25. Have these cuts preformatted so you can easily attach them in an e-mail.
- A description of your book. How would you describe your book to persuade someone to read it? You’ll want to spend some time thinking about this and trying variations on friends until you have refined your pitch into something compelling. This is another situation where you might want to have multiple versions ready: some editors want to see shorter descriptions of around 100 words, while others will be looking for something more detailed, in the range of 250 to 300 words.
- Examples of books that are similar to yours. Publishers will want to know if there is an audience for your book. If your book is a history of a music scene, be prepared with the titles of several books that have taken a similar approach. If it’s a revisionist western, have the titles of a few others ready to cite if someone asks.

Be Polite and Professional

If you have a public-facing social media presence, be aware that publishers may look you up there as well, and act accordingly. If you have a website that features links to works you’ve written, make sure that those links are current and in good shape; an editor who goes there, clicks through and finds a bunch of 404 errors may not be impressed. And if your website doesn’t have links to published works you’re proud of—add them.

As mentioned earlier, researching publishers is important, both to determine the relevance of your book’s subject matter to specific presses and to learn their submission policies. Many independent presses

Continued on page 26
The Art of the Pitch

By Chadwick Moore

For emerging writers, the stagger toward that first byline is arduous. Each writer’s style and approach to pitching editors become solidified only after years spent firing off into deep space so many desperate, cringe-worthy ramblings. When I left school, it occurred to me I had no idea what an e-mail pitch looked like. A successful one, I’ve come to believe, is a thing of economy and nuance. A few items are important to consider along the way.

The Idea

Whatever your idea, when writing nonfiction—whether personal essay, journalism or book proposal—your pitch must be clear and tight. No cruising down the rabbit hole. For the purpose of your pitch, imagine the story whittled down to its bare essence: the basic who, what, when, where and why this deserves publication. If you consider a story to be something that is constructed—as opposed to something discovered, intact, waiting there for you all along—what you’re selling is that one steel beam that will eventually support the entire structure. Your job at this point is to show off the simplicity, sturdiness and attractiveness of that beam.

The Editor

You may find yourself in the position of cold-calling an editor you’ve never met. Go for it, but do your homework first. When pitching to book publishers, book agents and editors of magazines, newspapers and journals, know what kind of content has done well for them in the past, and always read between the lines for differences in taste, tone and style; these qualities vary not only across publishers, but also among the different sections of a publication. Remember that one idea can be many different stories, depending on where it is placed. One idea might be equally viable for The New York Times and the New York Post, but those pitches probably will differ.

If you’re pitching to a large publication, say The New York Times, avoid reaching out to one of the head honchos, such as a section editor (unless you have a personal relationship). Go for someone a notch lower in that section, such as a deputy editor. You’ll be more likely to hear back.

As editor-at-large for a national magazine, I’m shocked on a daily basis by how few press agents and writers put effort into targeting their pitches specifically for me. If you haven’t bothered to do your homework (and it seems almost no one in PR does anymore), prepare to be ignored. One particularly boneheaded incident stands out among hundreds for me. Two days following the massacre in Orlando, with the gay community still deeply grieving, a press rep blasted off an e-mail to me about an exciting new luxury handbag she felt my readers—gay men—would be very interested in learning about. This happens all the time, despite the fact that I have zero interest in fashion and have never covered anything fashion-related. In this instance, had the press rep simply Googled me, she would also have seen I was on the ground in Orlando filing stories all week.

In that case, I did write back. “Hi Helen, Greetings from Orlando. So sorry I won’t be able to write about your handbag. Very busy sorting through the bodies of all these murdered gay people.”

Even if your pitch gets rejected, if it at least resembles an idea that an editor would normally run, and you’ve shown a clear interest in the work that editor is doing, your pitch will stand out.

Most important, don’t be intimidated. Editors need you just as much as you need them. They rely on your ideas, even the bad ones.
The E-mail
The most important part of the pitch e-mail is brevity. Keep it smart and keep it efficient. No one cares about your study abroad in France, about your GPA, about who inspires you or that you were features editor of your college paper.

At the top, briefly introduce yourself and your experience and then get to the meat: What’s the story? Be as specific as possible here. An editor doesn’t want to think about where a story should be placed. Tell the editor where it belongs. “This would be great for 500 words in the Observatory column in the Tuesday Science section.” If you have published clips, or even unpublished ones, link to your three best. Don’t send files as attachments.

The subject line of your e-mail need be nothing more than “Ideas” or “Article proposal,” though feel free to add a couple words if necessary. “Idea: Mockingbird terrorizing hipsters in Brooklyn,” is the typical tone of a subject line I would send to the Times. That story got an immediate green light.

It helps to offer up a few sacrificial lambs. If you’re trying to get your foot in the door and you’ve got one great idea for a publication, come up with four others before you reach out. List the ideas, “Idea 1, Idea 2,” each with an informed and efficient description. If some of these ideas aren’t so great, that only makes the better ideas appear more attractive by comparison.

The Silence
You will get ignored, always. While in limbo, don’t let yourself become discouraged and don’t take the silence personally.

I usually follow up after three days with a simple and polite message along the lines of, “Hello again, just curious if you received these ideas.” After that, maybe follow up in another week, and if still no response, perhaps move on.

While waiting, it’s important to avoid pitching the same idea to multiple publications simultaneously. If two publications green-light the same idea, you’ll be left in the embarrassing, and quite unprofessional, position of dumping one editor for the sake of the other—and that’s not going to bode well for your future dealings.

The Rejection
In the case of pitching, no news is bad news. But don’t completely write that editor off. It’s perfectly fine to come back with more ideas. If anything, your persistence may get you noticed and may even result in a small assignment coming your way. But remember to maintain decorum: no stalking.

I’ve always felt a “thanks, but no thanks” response is second best to getting a project green-lit. If an editor takes the time to respond to you, he or she may see potential. You should absolutely pitch that person again, and the sooner the better. In this situation, never be afraid to respond, point-blank, “What kind of stories do you like? What’s on your radar right now?”

The Green Light
It may happen that an editor takes your baby, tarts it up and throws it back at you in the form of a hideous and unrecognizable stepchild. This is fine. This is no time to be a diva. It is imperative to show you are easy to work with and you can get the job done. And now this editor, I guarantee you, does not want to hear from you again until your message contains a pristine first draft. Stay out of the editor’s hair, file the story on time and stick to your word count. And once that project is down, don’t waste any time moving on to the next pitch.


The Authors Guild Foundation
Legal Defense Fund

The Authors Guild has fought on a number of fronts to protect authors’ rights on behalf of the entire creative community. We’ve fought in the courtroom when necessary, but we’ve also stood up against Amazon’s industry dominance and publishers’ unfair contracts in the press, in the corridors of government, and in publishers’ boardrooms.

To continue our advocacy efforts without sacrificing member support and daily operations, the Authors Guild Foundation created the Authors Guild Foundation Legal Defense Fund to support the Authors Guild’s key advocacy initiatives. With the help of your tax-deductible contribution, we will continue the fight to ensure a competitive publishing industry for decades to come, and to ensure that strong copyright protection and creators’ rights continue to have an advocate in our legal system.

Donate at www.authorsguild.org/donate/.
The Short, Sad Life of an Unsuccessful Novelist

By Margaret Verble

I noticed my first symptom in 1999. A tingling in my fingertips. An odd feeling, like they were trying to grasp what they couldn’t reach or, maybe, trying to run away. Definitely doing something they shouldn’t be doing. I, however, was doing exactly what I thought I should be doing: running a consulting business, playing tennis, vacationing in places that suited my self-image. Still, the tingling persisted. There was something wrong with me.

When I wasn’t on the road working, I began hibernating. My basement den is nice. Equipped with a computer, exercise equipment and TV. The exercise equipment and TV didn’t alleviate the tingling. The computer keys, though, had a soothing effect. That’s what those fingers had been wanting to do. Tap, tap, tap, and so on. And on. I spent every spare moment I had from 1999 through 2007 in my basement den at that computer. That’s nine full years. I decided early on that I could run a business and write fiction. But I didn’t have time to run a business, write fiction and talk about writing fiction. The only person I discussed my writing with was my husband. He was also a consultant; but, when we’d fallen in love, he’d been the poet in residence for the metro Nashville school system. David had once had a fine mind for literature. I’d had a fairly good one. But, you see, we’d chosen, instead, to earn a living.

By 2007, I’d produced a couple of novels. And had tried to get agents for them. But I had no success at that. I began having other symptoms. A sinking feeling. A tenderness. Maybe a perpetual pout. I decided I couldn’t get a novel published alone. I needed help. I used the handy computer and looked on the Internet. To my surprise, there were writers’ workshops out there. Evidently, other people knew this. It was an industry. But, you see, I’d been in the basement, attending to the reading, writing and imagining it takes to produce novels.

I picked my first workshop on the basis of dubious criteria: (1) it had to be near New York, as even down in a basement in Kentucky it had come to me that the action is up there in the City; (2) it had to be near enough to drive to, as I fly too much for a living; (3) it had to offer critique sessions, because I had to know if I’d been wasting my time; (4) it needed nonfiction offerings, so I could entice my college roommate to go with me.

We picked the Wesleyan Writers Conference, and I was assigned Roxana Robinson as my instructor. I read a couple of Roxana’s books, as I wanted to be sure she could write. (She sure can.) I took the books with me, as you can’t expect anyone to take an interest in you if you don’t take an interest in her. Roxana critiqued my manuscript. After I left our session, I read what she’d inscribed on the title page of her novel Sweetwater: “For Margaret, Already a good writer.” That’s what nine years in a basement will do for you. You have to write to be a writer. And write. And write. And so on.

You also need a mentor, because nobody, I mean nobody, is successful alone. Roxana was kind enough to try to find me an agent. But agents are running businesses and have agendas of their own. None of the ones we tried wanted to take me on. I was discouraged. Kept writing. By then, not really by choice. By addiction. In July 2008, I wrote in a journal, “I thought I’d found an agent for my fiction. But I’ve just opened a letter that says I’m wrong about that. Likes the writing. Doesn’t know where to sell it. He’s not the first. I’ve failed at this so much that disappointment feels like destiny calling. Hard work isn’t enough. I need that confluence of forces called Luck.”

“When luck comes knocking, you have to answer immediately, no matter what you’re doing, no matter how many pain meds you’re on.”

—Margaret Verble
In October 2009, I wrote, “If I were inclined toward discouragement, that rock would be rolling me down a hill. Every morning I’m home, seven days a week, I get up early and write for an hour and a half. Then, after supper, I write nearly every night. I still haven’t found an agent. I may have lost sight of the line between perseverance and futility.”

In February 2010, Roxana came to Lexington for a book appearance. On that trip, she suggested I try writing short stories to build some credentials. I’m a novelist at heart; I didn’t want to do that. And I was busy. I had a contract with the National Health Service in the UK, and a new British partner who was going through treatment for cancer. I was also exhausted and frightened. I didn’t take up Roxana’s advice until the next year.

In January 2011, I wrote my first short story, “The Teller,” and sent it off to the Arkansas Review. I didn’t hear anything for months. I finally followed up with the editor, Janelle Collins. She told me the story was in the “maybe” pile. But on August 13, she e-mailed me to say she’d accepted it. The news gave me validation and hope. It justified all those years down the stairs.

I got a few more short stories published after that. But I still didn’t have an agent. And I still hadn’t given up being a novelist. By fall 2013, I’d finished a new novel, Maud’s Allotment; but by then, I knew I had cancer. Informed by the pathology report after surgery for something else. My cancer surgery had to be delayed until I’d healed enough to be cut open again. I went on to Scotland to work because I had a commitment there, and because, when you’re in business, if you’re not actually dead, you have to show up. While I was in Edinburgh, I had a bad meal alone, and a short story rejected by e-mail. You get the picture here: cancer, rejection, bad food, and half an island away from my partner. I e-mailed Roxana. Mentioned only the bad food, rejection and novel. She e-mailed me back. Said her agent was taking new clients. To send her, Lynn Nesbit, a hard copy.

When I got back to the States, I had two days before surgery, but I mailed that manuscript off. When Lynn sent a request for an electronic copy, I was somewhere in the bowels of the University of Kentucky Medical Center, too ill to sit up. My best friend brought my computer to me, moved me up in the bed and helped me hit the right keys. When Luck comes knocking, you have to answer immediately, no matter what you’re doing, no matter how many pain meds you’re on.

I was two days out of the hospital, still heavily doped, and sitting next to a bag of urine hooked over a drawer when Lynn called. She said she thought my book was “about 85 percent there,” and before she tried to sell it, she wanted me to send it to an editor she would pick. I tried to sound coherent, and Lynn said she’d call back with a name. When we hung up, I looked at the bag of pee. Wondered if I’d understood. Wondered if I’d hallucinated. Decided to wait and see. Cancer puts things in perspective.

But the sailing has been smooth seas from there. The editor, Adrienne Brodeur, had good judgment and was helpful. I slowly regained my health. Houghton Mifflin Harcourt bought the book, and Lauren Wein, my editor there, has been lovely to work with. Maud’s Line (the title was changed in New York) has a Pulitzer finalist badge on the paperback cover, and is selling. I have a new manuscript with Lynn right now.

Fifteen years isn’t really a long time to learn a complicated task like novel writing. It really isn’t. It’s not painting by numbers. That unsuccessful novelist is dead and buried. For now. I am alive and healthy. Again, for now. My fingers still tingle. But I’ve gotten used to that.

Margaret Verble’s debut novel, Maud’s Line, was a Finalist for the 2016 Pulitzer Prize for Fiction. She lives in Lexington, KY.

Who Pays Writers What?

In 2012, when Manjula Martin came up with the idea of a website that would list what various magazines and websites were paying writers, most freelancers—and many in-house writers—were in the dark as to what to expect, or dare ask for. Their only hope was a tip from a fellow writer, the sort of exchange that can be uncomfortable for both sides. Martin’s crowd-sourced WhoPaysWriters.com (see article opposite) cracked open the door. Since then dozens of sites listing payments at outlets big and small have proliferated on the web, some of them offering “premium” listings for a price as well, others that focus on specific genres. For writers just starting out, they can be useful, but be careful where you click. Here’s a sampling—visited by us but not endorsed.

whopayswriters.com
contently.net/rates-database
writejobs.info
www.makealivingwriting.com
thereviewreview.net/publishing-tips/
show-me-literary-magazines-pay
Talking $$$$$$: Writers Break the Last Taboo

Five years ago, Manjula Martin dreamed up the website WhoPaysWriters.com, a crowd-sourced site for writers to exchange notes on what different publications, print and electronic, pay freelancers. Four years ago, with the writer and publishing consultant Jane Friedman, she launched the online magazine Scratch, as a forum for writers to talk frankly about the tradeoffs between making art and making a living. “It’s still really scary and sometimes dangerous to talk about how much money you make,” she told The New York Times in 2014 “and so we’re trying to bring a little honesty to that.”

In essays and conversations, Scratch contributors and interview subjects shared strategy, tradeoffs, tax advice, compromises, agent names, publishers, and real numbers, as in advances (Jonathan Franzen), credit card debt (Cheryl Strayed), student loan debt (Roxane Gay). Scratch the magazine shut down in July 2015, but WhoPaysWriters.com lives on, and a collection of essays and interviews from the magazine—Scratch: Writers, Money, and the Art of Making a Living, edited by Manjula Martin—is just out from Simon & Schuster. An excerpt:

“I dunno . . . maybe drop out of college and move to New York and become a famous writer by the age of 21?”

—Manjula Martin

Don’t quit your day job, kid.”

Did I really believe I would be a best-selling author with a sweet SoHo loft by age twenty-one? No, but I didn’t believe I wouldn’t be. Any artist who produces work for public consumption must navigate a tenuous
Recently, I was living the Writing Life by clicking on a link to “10 Writing Rules from Some Canonical Author Dude” on one of the literary websites I frequent when I came across an item about a newly discovered letter by Oscar Wilde. Among a reported thirteen pages of advice to a younger writer was Wilde’s admonition to secure a steady income: “The best work in literature is always done by those who do not depend on it for their daily bread.”

In other words, don’t quit your day job, kid.

✦


Going It Alone
Continued from page 20

list their policies on their websites. Keep track of these and be respectful of them: if a publisher says that it doesn’t accept unagented submissions, your sending a host of messages to its main e-mail address isn’t going to change anyone’s mind. If a publisher does accept unagented submissions but doesn’t provide sufficient detail on its site, e-mail the contact address with a brief description of your project and ask what materials you should submit for consideration. Some publishers might request a full manuscript; others might want to see an excerpt. As stated earlier, the procedure will vary from publisher to publisher.

Again, be polite. Being told that your manuscript has been rejected or that a publisher’s submission window is now closed is understandably bad news. No one likes rejection. But taking it out on someone working at the press is not going to convince that person to make an exception for you.

Keep Track of Opportunities

Some publishers have finite reading periods for manuscripts. Some will mention this on their websites; others may announce it on social media or via an e-mail newsletter. Keep track of these dates. If a reading period is several months away, set a reminder in your calendar. Open reading periods can lead to publication, as can contests, which often focus on a specific type of manuscript. These are great ways to have your work looked at by presses; additionally, journals like Entropy (which has a recurring Where to Submit feature) frequently compile lists of open reading periods and contests that can result in publication.

You should also keep a record of where you’ve submitted manuscripts or queries. Spreadsheets can be very useful in this endeavor; you’ll want to note such facts as the name of the press, the date you submitted work and (if applicable) what you sent that press. If the publisher uses an application like Submittable to handle submissions, you’ll have some of this data available when you log in, but it’s best to keep track of everything separately as well. And if your book does get accepted by a publisher while it’s under review from another publisher, it’s good form to let the second publisher know so that no one there spends time reviewing a manuscript that’s already been taken by another press.

Good Luck!

Finding a publisher without an agent can be a formidable challenge—but then, so is writing a book in the first place. Having an idea of what resources are available and a sense of the best practices to employ while you are doing your research can make a difficult project a lot easier. And it’s always possible that someone you encounter during the process will be interested in a future project of yours. The route to publication is a complicated one, but it can lead to a host of rewards.

Tobias Carroll is the managing editor of the literary website Vol. 1 Brooklyn and the author of the books Reel (Rare Bird) and Transitory (Civil Coping Mechanisms). Courtesy Electric Lit.
Financial Management for Freelance Writers

By the Electric Literature staff

Working from home might seem like “living the dream,” but being a full-time freelance writer can be a nightmare if you don’t know how to manage your time and money. Reading your favorite writers doesn’t teach you how to do taxes, and nobody talks about word rates in writing classes, so many writers quickly feel lost and overwhelmed when it comes to managing their finances. Here’s a quick guide to staying alive in the world of writing-for-hire.

Salaried vs. Contracted Work

Doing taxes as a freelancer can be a lot more complicated than doing them when you have a regular full-time job with a W-2. If you’ve ever had a salaried job, you know that the first paycheck is always less than you expect, because most taxes are taken out when you’re paid. For contracted services, which includes freelance work, you’re responsible for paying taxes on your income after you’re paid. This can mean more money up front, but a larger tax burden at the end of the year (or quarter if you pay quarterly).

Every time you’re paid for freelance work by a new client, you’ll be asked to fill out a W-9 form. W-9 forms provide the client—in this case, the publisher—with necessary information like your address, Social Security number, and legal name. Every client that pays you more than $600 in a single calendar year is required to provide you with a 1099 form, which reports the total compensation the client paid you for the year. Come tax time, you are responsible for reporting these earnings to the IRS and the state, not your client.

Starting in tax year 2017, 1099s must be provided to freelancers (you) by January 31. But not all publishers are as informed and organized as you’ll be after reading this article, so if you earned more than $600 from anyone for freelance work and haven’t received a 1099 by February, be sure to follow up.

If you’re subsisting on freelance income exclusively you should consider paying your taxes on a quarterly basis, rather than annually.

Tax Write-Offs

Whether you’re self-employed or subsisting largely on freelance income, you should plan to “write off” business-related expenses on your taxes. To be eligible to deduct writing-related expenses, you must intend to write professionally and for your writing to be income-generating. If the IRS deems your writing a hobby, they will not allow the deductions. You can deduct expenses even if you had a bad year income-wise (e.g., an advance that arrived in full in the prior calendar year), and the IRS will allow it, as long as you can show writing income for past or subsequent years. If your writing is income-generating, or you honestly expect it to be in the next year or so, then you should start keeping track of the kinds of writing-related expenses you can write off.

Write-offs, or deductions, can include large expenses, such as a computer, and smaller ones, such as office supplies or lunch with an editor. If you write about film, television, or books, purchases of those kinds of media—even subscriptions to streaming sites like Netflix, digital magazines, or databases—can be considered work-related expenses. If you work from home, you can even write off a portion of your rent or, if you own your home, a portion of your mortgage interest and real estate taxes. This can be a little tricky, but the best method is to calculate what percentage of your rent or mortgage interest and taxes goes toward your home office, based on square footage. If you don’t have a separate space for your office, you can still take a portion of your home as your workspace, but be judicious.

When applying all of these deductions to your tax return, err on the side of caution, and, if possible, hire like H&R Block—which do free consultations, but there are also many private accountants who are used to dealing with “creatives” and have expertise in applying the tax rules to freelancers. Whatever you do, it’s best to remember that asking for help upfront is always cheaper than dealing with the IRS when it comes knocking.
a professional. Some rules can be quite complicated, so if you are proceeding without professional help make sure to study them thoroughly. The rent deduction, for example, is an estimate, which means it should be conservative. While claiming your expenses as deductions is completely legitimate and essential—you are running your own business—claiming suspiciously high amounts can trigger an audit.

In order to keep track of work-related expenses throughout the year, you'll need to save your receipts. Many freelancers choose to write notes on their receipts to remember what the expense was for: e.g. “Lunch with Bunny to discuss revisions.” But this system can get messy fast and lead to drawers bursting with unorganized bits of white paper. Now, there are a variety of receipt management apps that can help with tracking your expenses. These apps allow you to take a picture of the receipt, label it, and save it within the app—freeing up that drawer for your writing manuscripts. And while it’s a good idea to save all your receipts, another way to further delineate your personal and business expenses is simply to use a dedicated bank account or credit card to make all your writing-related purchases. That way, if there’s no receipt, there’s still a record of the transaction with your bank. A lot of apps and software—including basic Quickbooks—will allow you to import a PDF of your bank or credit card statement. From there, different types of expenses can more easily and readily be separated.

Additionally, when it comes to taxes, it’s worth noting that freelancers pay taxes that salaried employees don’t. This is because if you work for an employer, you and your employer each pay half of your Social Security and Medicare taxes. If you’re self-employed, on the other hand, you pay the combined employee and employer amount.

Hourly vs. Flat or Word Rate

Be sure to set hourly, flat, and word rates for yourself that are realistic and will enable you to meet your financial goals. Usually, the publication will set the rate (there may or may not be room for negotiation), but it is useful to have an expected rate in mind so that you think twice about taking work that pays less than your desired rate. You can always take on lower-paying work, as long as you also have higher-paying work that will allow you to pay your bills, or if the piece is likely to bring you more work or prestige. But don’t jump at work just because someone is offering to publish you. Remember that your work is valuable and it is your business; so don’t give it away unless there is a clear business reason to do so.

Most freelance writers aren’t paid by the hour because it’s more expensive for the publication, but if you are offered an hourly rate, bravo! You’re in good shape. All you have to do is decide if that hourly rate seems fair, based on the type of work you’re doing—and keep in mind you can always try to negotiate the rate. However, most of the time you’ll be offered a flat rate or word rate for the piece. So, if an article for a website takes you one hour to complete and you’re being offered 50 bucks for said article, that’s great: you’ve made 50 bucks an hour. However, if that article takes you several days to complete, you have to consider how much you’re really making. This isn’t to say you shouldn’t do cool pieces for peanuts—there will be times when the exposure of a low-paid or unpaid piece is likely to lead to paid work, and building your résumé sometimes requires doing work that doesn’t pay very well. But while you can cobble together an income with little pieces here and there, you should always be honest with yourself about how much each gig is actually worth.

Freelancers pay taxes that salaried employees don’t. . . . if you work for an employer, you and your employer each pay half of your Social Security and Medicare taxes. If you’re self-employed . . . you pay both.

Treat Your “Survival Job” with Respect

Most freelance writers today cannot live entirely on their writing. Gone are the days when a writer could make thousands from one or two magazine articles. In that same vein, resist the temptation to idealize established writers’ full-time jobs at big magazines where they seemingly get to write about whatever they want. Instead of looking too far ahead, it’s important to think about what part-time jobs you can do to remain financially stable.

Whether you are waiting tables, dog-walking, working retail, or doing any other job that is just crushing your creative soul, here’s a hard truth: being a writer is a long game and you’ve got to take care of yourself. Having that extra thousand dollars in the bank may be better than cranking out a few more freelance pieces when you get to the end of the month. Your day job may be the only thing between you and being broke.
The Trump Presidency

Continued from page 18

in its December 2016 strategic plan for IP enforcement in the coming years. The IPEC report noted that counterfeiting and piracy worldwide “appears to be approaching, if not surpassing, the trillion dollar mark.” It also singled out China as a nation of rampant infringement, stating that China and Hong Kong are the origin of 87% of all goods seized by U.S. Customs and Border protection.

Stay tuned . . .

It is difficult to assess how the Trump administration will treat copyright and the rights of authors. Given the lack of substantive discussion on these issues during the campaign and Trump’s willingness to change his views (or at least what he says) on certain issues, we’re left to speculate. The Guild will keep you, our members and supporters, posted on the positions and priorities of the Trump administration as they come to light. Be sure to consult our bi-weekly newsletter and e-mail alerts on these issues if you would like to stay informed. ♦

Invoicing, Budgeting, and Getting Paid

Freelancers know that their income arrives in fits and bursts. Though your income will probably never be as regular as a biweekly paycheck, there are some things you can do to stay organized and plan ahead.

The first step to getting paid for freelance work is to invoice the publisher immediately upon completion of our work. Include the term of payment in your invoice. Unless otherwise stipulated in your contract, the standard term for payment is 30 days. If you ask for a quicker turnaround you may be pressing your luck, but you should feel free to send a reminder to the publication if you haven’t been paid in the agreed upon amount of time. There are many apps and online tools for keeping track of your invoicing, including Freshbooks and Quickbooks, which automatically assign invoice numbers and organize your invoices chronologically, and in one place. If you don’t use a third-party invoicing system, maintain a spreadsheet to track your outstanding payments. Record the amount you are owed in the sheet, along with the publication, invoice date, and invoice number. Whether you are using a spreadsheet or accounting software, it’s essential to record payments as received when they arrive.

When getting paid by a publisher, always sign up for direct deposit if given the option. This way, you can deal directly with an accounts payable department, and avoid lost checks and third-party fees. Once you get direct deposit set-up, subsequent payments will be prompt and automatic. This is a bit more work on the front end, but in the long run it will speed up the process and make your life much easier.

If direct deposit or third-party payment systems like PayPal are unavailable, you will be paid by check. For the purposes of your own budget, be a pessimist. No matter how much you are paid and no matter how professional the magazine, you’ll likely have to wait much longer than anticipated to actually get your check. It isn’t fair, but it’s better to factor in a late payment than to be burned by one. If certain publishers pay quickly, keep that in mind for future pitches. Even if you don’t love the stuff you write for them, it’s important to have consistent work with publishers who pay reliably.

When the check finally arrives, deposit it immediately. This may seem obvious, but stacks of junk mail have a way of swallowing uncashed checks and bills alike. The fastest way to deposit a check is to use your bank’s mobile app. This allows you to deposit your check from the comfort of your own home by taking photographs of your check within the app. After you’ve deposited the check, write “Mobile Deposit” and the date across the front of the check. Once you get the e-mail confirmation that your deposit has been processed, you can rip up the check and throw it away; there is no need to save it.

Lessen Your Stress

Writers are, by nature, creative people who are not necessarily inclined to put extra energy into things like accounting and financial management. However, properly managing your freelance finances is an essential part of taking yourself seriously as a writer. Writing is not a hobby, it’s your career, and it’s important to hold it to the same standards you would any job.

Everything about being a freelancer can create anxiety, including financial management. But the more organized you are, the less anxious you’ll be—freeing up energy to worry about more important things, like writing.

Watch for more financial tips to come in the Spring/Summer issue.
Hope for Authors in the Digital Piracy Battle

As the Copyright Office continues its study of the effectiveness of the Digital Millennium Copyright Act (see “Tales of the DMCA,” Authors Guild Bulletin, Summer 2016), an ongoing legal proceeding, BMG Rights Management v. Cox Communications, has offered some potential hope to authors and content creators that Internet service providers (ISPs) acting in bad faith are not immune to the law.

The fact that the Internet serves as a global meeting place, bulletin board and speaker system for the public—and sometimes a black market—also makes it the premier venue for copyright infringement. Until recently, however, the DMCA, which Congress created to address digital piracy, has been interpreted largely in favor of ISPs, much to the frustration of copyright holders.

The August 2016 decision in BMG v. Cox by the United States District Court for the Eastern District of Virginia that upheld a December 2015 jury finding that awarded the rightsholders $25 million in damages marks a departure from this trend. The decision is significant for the court’s application of one of the act’s safe harbor protections, and for its finding of “willful contributory infringement” on the part of Cox Communications, one of the largest ISPs in the country.

First, a quick refresher on the DMCA. Congress passed the law in 1998, in the hope of addressing digital piracy in the rapidly changing spheres of technology, communications, and copyright. Included in the new law were certain limitations on liability, or safe harbors, intended to balance technological growth and innovation with the need for authors and other content creators to protect their works.

The DMCA was intended to guard against the potential for rampant piracy on the Internet, given the ease of distributing perfect copies, as well as the concern that ISPs—those services that allow others to transmit, post or display materials on the internet—could potentially be held liable for the infringing activities of their users. As part of the DMCA, Section 512 of the Copyright Act was enacted as a solution to both; it was meant to incentivize ISPs to keep both infringing content and repeat infringers off their services in exchange for immunity from legal liability. To date, courts in many jurisdictions (including the 2nd and 9th Circuits, where most copyright cases are heard) have, on the one hand, interpreted the rules for ISPs extremely liberally, so that services that allow rampant piracy still comply, and on the other hand, interpreted the rules for rightsholders very strictly.

This has resulted in a statute that has completely failed in one of its two goals—to keep piracy off the legal Internet—but has been extremely successful in its other goal, to allow Internet businesses to flourish. As the author Jonathan Taplin wrote in a December 13 op-ed in The New York Times, “Google and Facebook can achieve huge net profit margins because they dominate the content made available on the web while making very little of it themselves. . . . The rise of these digital giants is directly connected to the fall of the creative industries of our country.” Since 2000, Taplin noted, even as people have been consuming more video, news, and books than ever, recorded music revenue has fallen over $12 billion, home video revenue has fallen over $6 billion, and newspaper ad revenue has fallen over $40 billion. “During this same period,” Taplin added, “Google’s revenue grew to $74.5 billion from $400 million.” Imbalanced application of the DMCA by the courts have played a major role in this transfer of wealth.

Now back to our case. In late 2014, BMG Rights Management, a music publisher and rights management organization, sued Cox—a “conduit” service provider that connects customers to the Internet—for secondary liability stemming from the copyright in-
fringements of Cox’s customers. Cox is not a website, and does not host any of the content at issue in the case, nor does it store any of the infringing material on its servers. Cox customers, however, use its services to access the peer-to-peer file sharing network BitTorrent in order to upload and download materials, among many other things. While BitTorrent is capable of non-infringing uses such as uploading materials in the public domain, an estimated 96 percent of its users were seeking infringing content during the time frame at issue in the case.

One of the rules for service providers to avoid liability under Section 512 is that a provider must (1) adopt and reasonably implement “a policy that provides for the termination in appropriate circumstances of subscribers and account holders . . . who are repeat infringers,” and (2) inform its subscribers and account holders of its policy. Cox argued that it had met this standard, but the court disagreed. Although Cox had implemented a policy to deal with notices of copyright infringement by its users, it was essentially a “thirteen strikes and you’re out” policy, the court noted. Additionally, Cox would attribute only one notice to any given subscriber per day and would process no more than 200 notices per copyright holder per day, regardless of how many infringements occurred during the 24-hour period. Furthermore, it was Cox’s practice to retain these notices for just six months, rebooting the strike count after that time. The Court found that Cox had not held up its end of the bargain sufficiently to enjoy the protections of the DMCA safe harbors. Although the company had a repeat infringer policy, the Court found that the policy was not robust enough.

The Court also held that Cox was liable for the infringements of its users, and at a subsequent trial, the jury found Cox liable for “willful contributory infringement” and awarded BMG $25 million in damages. Under the willful contributory infringement theory, Cox’s liability stems from “evidence of its knowledge of specific infringing activity and continued material contribution to that infringement.” Cox’s actions were judged contributory to the infringement because it received notices of infringement and ignored them, failing to act even though it could terminate a user’s access by pressing a button. Cox’s actions were found to be willful because the company was consciously blind to the infringement of BMG’s copyrights. That is, while Cox’s customers were using BitTorrent to upload and download BMG’s copyrighted works, Cox turned a blind eye to multiple infringement notices, and inadequately disposed of those that it chose to address.

Cox has appealed the decision to the Fourth Circuit, but the debate over safe harbor and fair treatment of the various interests the policy is intended to protect continues. Given the wide-ranging effects any decision is expected to have, other organizations are hoping to shape the final outcome, as a variety of groups submitted friend-of-the-court briefs to the Fourth Circuit in November.

Finally, the Copyright Office itself may take the BMG v. Cox decision into account in its ongoing review of the DMCA. The Office was flooded with written submissions in the first round of public comments in April 2016. Those written submissions were followed by public roundtables held in New York and San Francisco last May, as we reported in the Summer 2016 Bulletin. Next up, the Office is calling for additional written comments to be filed on February 6. The Guild is putting the finishing touches on these as we go to press.

Finding the balance between the rights of copyright holders and service providers remains a struggle, as the Copyright Office’s study attests. In the context of the Internet, going after individual infringers is like bailing out the proverbial sinking ship with a spoon. But if service providers are required to actually hold up their end of the bargain by respecting copyrights and not turning a blind eye to obvious infringements, equity may yet be achievable.

—Allison Venuti
Legal Intern
MEMBERS MAKE NEWS

Why We Came to the City by Kristopher Jansma and The Ballad of Black Tom by Victor LaValle were included in the Brooklyn Eagles Literary Prize Fiction long list.

The Chicago Public Library Foundation and the Chicago Public Library honored Erik Larson and Scott Turow with Carl Sandburg Literary Awards—for Nonfiction and Fiction, respectively—at the Sandburg Literary Awards Dinner on October 26. The award recognizes “outstanding contributions to the literary world and honors a significant work or body of work that has enhanced the public’s awareness of the written word.”

The long lists for the 2017 Carnegie Medals for Excellence were announced on September 21. The Fiction category included Rabih Alameddine’s The Angel of History, Dave Eggers’s Heroes of the Frontier, Louise Erdrich’s LaRose, Ann Patchett’s Commonwealth, Dominic Smith’s The Last Painting of Sara de Vos, Elizabeth Strout’s My Name Is Lucy Barton and Larry Watson’s As Good as Gone. Patricia Bell-Scott’s The Firebrand and the First Lady, David France’s How to Survive a Plague, Robert Kanigel’s Eyes on the Street and Mary Roach’s Grunt were listed for Nonfiction. The short lists were announced on October 26. Patricia Bell-Scott’s The Firebrand and the First Lady: Portrait of a Friendship: Pauli Murray, Eleanor Roosevelt, and the Struggle for Social Justice, was named a finalist. The winners will be announced January 22, 2017, at RUSA’s Book and Media Awards Ceremony at the American Library Association’s Midwinter Meeting in Atlanta.

Kia Corthron’s The Castle Cross the Magnet Carter won the Center for Fiction’s First Novel Prize. Thomas Jefferson Dreams of Sally Hemings by Stephen O’Connor was long-listed for the prize. The winner was announced at the organization’s Annual Benefit and Awards Dinner on December 6 at the Metropolitan Club.

The 2016 Kirkus Prize finalists included Annie Proulx’s Barkskins, a finalist in the Fiction category. Sherman Alexie’s Thunder Boy Jr., illustrated by Yuyi Morales, and Russell Freedman’s We Will Not Be Silent: The White Rose Student Resistance Movement That Defied Adolf Hitler were finalists in the Young People’s Literature category.

The long list for the National Book Awards was announced the week of September 12. Donald Hall was long-listed for The Selected Poems of Donald Hall in the Poetry category. In the Nonfiction category, Patricia Bell-Scott was long-listed for The Firebrand and the First Lady. Robert Caro was honored at the NBA ceremony in November with the Distinguished Contribution to American Letters Medal.

Rudolfo Anaya and Ron Chernow are among the 12 recipients of the 2015 National Humanities Medal. President Obama presented the medals in conjunction with the National Medals of Arts during a White House ceremony on September 22, 2016.

PEN Center USA has announced the winners and finalists of its 2016 Literary Awards. Chris Barton’s The Amazing Age of John Roy Lynch was a finalist in the Children’s/Young Adult category. Ken Armstrong’s “An Unbelievable Story of Rape,” co-written with T. Christian Miller, won in the Journalism category. The awards were presented at PEN Center USA’s 26th annual Literary Awards Festival on September 28.

The 2017 PEN America Literary Awards long lists were announced the week of December 5. Brit Bennett’s The Mothers was long-listed for the PEN/Robert W. Bingham Prize for Debut Fiction. Jerome Charyn’s A Loaded Gun: Emily Dickinson for the 21st Century, Ruth Franklin’s Shirley Jackson: A Rather Haunted Life and Joe Jackson’s Black Elk: The Life of an American Visionary were listed for the PEN/Jacqueline Bograd Weld Award for Biography. Tess Lewis’s translation of Angel of Oblivion by Maja Haderlap was long-listed for the PEN Translation Prize. Susan Cheever’s Drinking in America: Our Secret History was long-listed for the PEN/John Kenneth Galbraith Award for Nonfiction.

Mia Alvar received the Janet Heidinger Kafka Prize for Fiction for her short story collection In the Country.

Gint Aras’s The Fugue was named a finalist for the Chicago Writers Association’s 2016 Book of the Year Award in the category of Traditionally Published Fiction.


Brit Bennett is one of the National Book Foundation’s 2016 “5 Under 35” honorees, for debut fiction that “promises to leave a lasting impression on the literary
landscape.” Her debut novel, The Mothers, was also named a finalist for the National Book Critics Circle’s 2016 John Leonard Prize and for the PEN/Robert W. Bingham Prize for Debut Fiction.

Roy Blount Jr. was inducted into the Georgia Writers Hall of Fame on Monday, November 7, at a ceremony at the Richard B. Russell Building Special Collections Libraries in Athens, GA.

Anne Bustard’s Anywhere but Paradise was a 2016 WILLA Literary Award finalist for Children’s/YA Fiction and Nonfiction, presented by Women Writing the West, and a finalist for the 2016 Texas Institute of Letters Award for Best Children’s Book.

Talia Carner’s Hotel Moscow won the 2015 USA Best Book Award in the Multicultural Fiction category.

Ellen Cassedy received a 2016 PEN/Heim Translation Fund Grant for her translation of On the Landing: Selected Stories by Yenta Mash. It is the first Yiddish project to receive support from the PEN/Heim Translation Fund.


Deborah Cramer’s The Narrow Edge: A Tiny Bird, an Ancient Crab, and an Epic Journey received the 2016 Keck Communications Best Book Award from the National Academies of Sciences, Engineering, and Medicine; the 2016 Rachel Carson Environment Book Award from the Society of Environmental Journalists; and the 2016 Reed Environmental Writing Award from the Southern Environmental Law Center; it was also named a Must Read Book in the 2016 Massachusetts Book Awards.

Matt de la Peña won the National Intellectual Freedom Award from the National Council of Teachers of English. The award is presented to those fighting against censorship through both words and actions. He received the award at the NCTE Annual Convention in Atlanta, Georgia, in November.

Diane Elliott’s verse novel Songs of Bernie Bjorn was named a Kirkus Best Indie Book of 2016.

Elizabeth Fackler-Sinkovitz’s Grand River Highway: One Woman’s Journey to Autonomy was a finalist in the Biography category of the 2016 New Mexico-Arizona Book Awards.


Ernest J. Gaines was honored with the 2016 North Star Award, the Zora Neale Hurston/Richard Wright Foundation’s “highest honor for career accomplish-

ment and inspiration to the writing community.” The award was presented on October 21 at the Washington Plaza Hotel in Washington, D.C.

Wendy Hinman’s Tightwads on the Loose was awarded the Journey Award for Best True Life Adventure Story by Chanticleer Book Reviews.

Belief Is Its Own Kind of Truth, Maybe by Lori Jakiela won the William Saroyan International Prize for Writing in the category of Nonfiction.

Suzanne Kamata won the Half the World Global Literati Award in the Best Novel category for her unpublished manuscript, Squeaky Wheels.

Jonathan LaPoma’s Developing Minds: An American Ghost Story garnered the bronze medal in the 2016 Florida Authors and Publishers Association President’s Awards in the Adult E-book category.

The winners of Romance Writers of America’s RITA Awards were announced on July 16. Julie Anne Long’s It Started with a Scandal won a RITA in the category of Historical Romance: Short.

Margaret Maron was inducted into the North Carolina Literary Hall of Fame at the Weymouth Center for the Arts and Humanities in Southern Pines on October 16, 2016. The Hall of Fame “celebrates and promotes the state’s rich literary heritage by commemorating its leading authors and encouraging the continued flourishing of great literature.”

Sherry Monahan won the Will Rogers Gold Medallion Award for The Cowboy’s Cookbook. The award ceremony took place on Saturday, October 29, in Fort Worth, TX.

Mark Monmonier was inducted into the Urban and Regional Information Systems Association’s GIS Hall of Fame in recognition of his books and research contributing to the “development and application of GIS concepts, tools, or resources.”

James McGrath Morris’s Eye on the Struggle: Ethel Payne, the First Lady of the Black Press won the Benjamin L. Hooks Institute for Social Change’s National Book Award for 2015. The award celebrates “publications that best advance an understanding of the American civil rights movement and its legacy.”

Carla Norton’s What Doesn’t Kill Her won the 2016 Nancy Pearl Award for Best Book in Genre Fiction, presented by the Pacific Northwest Writers Association, as well as the President’s Book Award Gold Medal for Suspense/Thriller Fiction, bestowed by the Florida Authors and Publishers Association.

Barbara Novack’s Do Houses Dream? was a finalist for the Blue Light Press Poetry Prize.
Ann Patchett is one of three recipients of the 2017 Poets & Writers/Barnes & Noble Writers for Writers Award, which recognizes writers who have given generously to other writers or to the broader literary community. She will be honored at the Poets & Writers Annual Dinner on March 8, 2017.

Fiza Pathan’s Raman and Sunny: Middle School Blues and Classics: Why We Should Encourage Children to Read Them won gold medals at the 2015 Readers’ Favorite International Book Awards. Classics also won a 2015 Beverly Hills Book Award in the Education category. Pathan’s Amina: The Silent One received several honors, including two awards at the 2015–16 Reader Views Literary Awards: First Place in General Fiction/Novel and the Global Award (Asia). Amina also received a bronze medal in Realistic Fiction at the 2016 Readers’ Favorite International Book Awards and a 2016 Beverly Hills Book Award in Regional Fiction; plus, it was a finalist for the 2016 Next Generation Indie Book Award. The author’s Nirmala: The Mud Blossom was a solo medalist winner in General Fiction at the 2016 New Apple E-book Awards.

Carla Perry’s Riva Beside Me: New York City 1963–1966 has been turned into a stage play. The debut performance is scheduled for March 24, 2017, with four performances each weekend through April 8 at the Performing Arts Center in Newport, Oregon.

Melinda Worth Popham’s Grace Period: My Ordination to the Ordinary was named a finalist for the 2016 Next Generation Indie Book Awards in the category of Memoir (Other).

From the President
Continued from page 6

only prices determined by my buying habits, proposed to me by Amazon, while waiting to see my reaction.

Amazon was not offering me the best price available; in fact its offerings were excluding the best prices available. So how does this particular monopoly function to help the customer? Might it not actually cause me economic harm?

Amazon is now one of the largest companies in the world. It wants to be all things to all people, or at least it wants to sell all things to all people. But if it wants to sell the same things at different prices, and wants to sell me books for $50 that it offers to Abigail for $10, then I’d rather find a different source. That feels like harm. ♦

The Authors Legacy Society

The Authors Legacy Society was created to allow the Authors Guild’s most loyal supporters to make a commitment to the Guild or its Foundation that lasts beyond their lifetimes. By including the Guild or its Foundation in your estate plans, you can help ensure that its essential work will continue in the years to come. Members of the Society will receive a memento of appreciation and will be listed annually in the Authors Guild Bulletin, unless they choose to remain anonymous. For further details, including the tax benefits of making a donation, visit authorsguildfoundation.org or call 212 594 7931.
Richard Adams, 96, died December 24 in Oxford, England. The author of *Watership Down*, one of the most popular children’s books of the 20th century, Adams was the winner of two of Great Britain’s most prestigious children’s book awards, the Carnegie Medal and the Guardian Children’s Fiction Prize. A successful animated film of the beloved children’s novel was made in 1978, and the BBC and Netflix will be releasing a new four-part adaptation in 2017.

Natalie Babbitt, 84, died October 31 in Hamden, CT. She was the author and illustrator of more than 20 children’s books, including *Tuck Everlasting*.

Sally Beauman, 71, died July 11 in Northern England. She was the author of 10 books, mostly fiction, but was best known for her debut novel, *Destiny*.

E. R. Braithwaite, 104, died December 12 in Rockville, MD. The Guyana-born, Oxford-educated scholar and diplomat was the author of the memoir *To Sir, With Love*, which was adapted into the 1967 film starring Sidney Poitier.

Austin Clarke, 81, died June 26 in Toronto. He was the author of numerous novels, including *The Survivors of the Crossing* and *The Polished Hoe*, which won both the Scotiabank Giller Prize and the Commonwealth Writers Prize.

Michelle Cliff, 69, died June 12 in Santa Cruz, CA. She was the author of fiction, poetry and essays, including such works as *Abeng, No Telephone to Heaven, The Land of Look Behind*, and the memoir *Claiming an Identity They Taught Me to Despise*.

Judith Ortiz Cofer, 64, died December 30 in Louisville, GA. She was the author of fiction, poetry and multigenre works for both adults and children, including *The Latin Deli, Silent Dancing* and *The Meaning of Consuelo*.

Anna Dewdney, 50, died September 3 at her home in Chester, VT. Best known for her *Llama Llama* series, she was the author and illustrator of over 20 books and an advocate for children’s literacy.

Robert F. Dorr, 76, died June 12 at Inova Fairfax Hospital in Northern Virginia. He wrote for the *Military Times* for nearly two decades and published over 70 books, including *Hell Hawks!* (which he coauthored with Thomas D. Jones) and *Mission to Berlin*.

Lois Duncan, 82, died June 15 at her home near Sarasota, FL. A pioneer in the teen suspense genre, she published nearly 50 books for young adults and children, including *I Know What You Did Last Summer* and *Killing Mr. Griffin*.

Donn Fendler, 90, died October 9 in Bangor, ME. He was best known for his nonfiction tale about how he survived nine days in the wilderness, *Lost on a Mountain in Maine*.

Carrie Fisher, 60, died December 27 in Los Angeles. The actor-turned-bestselling-writer was the author of the biographical novel *Postcards from the Edge*, the memoir *Wishful Drinking* and several other works of fiction and nonfiction.

Gavin Frost, 86, died September 11 in Charleston, WV. With his wife, Yvonne Frost, he coauthored nearly two dozen books on witchcraft, magic and other related topics. Titles include *The Magic Power of Witchcraft* and *The Good Witch’s Bible*.

Barbara Goldsmith, 85, died at her home in Manhattan. She was one of the founding editors of *New York* magazine and the author of numerous works of fiction and nonfiction, including *Little Gloria . . . Happy at Last*. 
Benoîte Groult, 96, died June 20. The French feminist novelist and activist was best known for her novel *Salt on Our Skin*, which was later adapted into a film.

Shirley Hazzard, 85, died December 12 at her home in Manhattan. She was best known for *The Transit of Venus* and *The Great Fire*, which won the National Book Award in 2003.

Michael Herr, 76, died June 23 near his home in upstate New York. A Vietnam War correspondent for *Esquire* from 1967 to 1969, Herr was the author of the revered “nonfiction novel” *Dispatches* (1977), a memoir of his two years in the field.

Yumi Heo, 52, died November 5. She was the author and illustrator of more than 30 children’s books, including *Rubber Shoes, Lady Hahn and Her Seven Friends* and *Jibberwillies at Night*.

Thom Jones, 71, died October 14 in Olympia, WA. He was best known for the short story collections *The Puglist at Rest* and *Sonny Liston Was a Friend of Mine*.

Larry Karp, 77, died October 11 in Seattle. He was the author of more than a dozen books, including the well-regarded biography *Brun Campbell: The Original Ragtime Kid*. The last of his nine mystery novels, *The Ragtime Traveler*, will be published in June 2017.

W. P. Kinsella, 81, died September 16 in Hope, British Columbia. He was the author of almost 30 books including *Shoeless Joe*, which became the basis for the film *Field of Dreams*.

Tim LaHaye, 90, died July 25 in San Diego. An evangelical minister and political activist, LaHaye was the coauthor of the popular *Left Behind* series.


James Alan McPherson, 72, died July 27 in Iowa City. A novelist and writer of short stories and nonfiction, he was the first African-American to receive the Pulitzer Prize for fiction, which he won in 1978 for his short story collection *Elbow Room*. At the time of his death, he was professor emeritus at the University of Iowa Writers’ Workshop.

Gloria Naylor, 66, died September 28 near her home in Christiansted in the Virgin Islands. She won the National Book Award for her first novel, *The Women of Brewster Place*, and was the author of seven more novels, including *Linden Hills, Mama Day* and *Bailey’s Cafe*.

Lucia Perillo, 58, died October 16 in Olympia, WA. She was the author of several essay and poetry collections, including *Inseminating the Elephant*, which was a finalist for the Pulitzer Prize.

Carolyn See, 82, died July 13 in Santa Monica, CA. She wrote seven novels under her own name, co-wrote three books under the pseudonym Monica Highland, and published four works of nonfiction, including the memoir *Dreaming: Hard Luck and Good Times in America*.

Barbara Seuling, 79, died September 12 in Lebanon, NH. She was the author and illustrator of many children’s books including the Robert series and the Freaky Facts series.

Thomas Steinbeck, 72, died August 11 in Santa Barbara, CA. He was the eldest son of John Steinbeck, and the author of *Down to a Soundless Sea*, *The Silver Lotus* and *In the Shadow of the Cypress*.

Cory Taylor, 61, died July 5 in Queensland, Australia. She was an award-winning screenwriter who turned to fiction in the last years of her life, writing *Me and Mr. Booker* and *My Beautiful Enemy*.

Joyce Carol Thomas, 78, died August 13 at Stanford University Medical Center in Palo Alto, CA. She was the author of more than 35 books, including *Marked by Fire*, which won the National Book Award in 1983.

Alvin Toffler, 87, died June 27 at his home in Los Angeles. The author of 13 books, he was best known for *Future Shock* and the follow-up volumes *The Third Wave* and *Powershift*.

William Trevor, 88, died November 20 in Somerset, England. The Irish-born writer was the author of nearly 40 novels and short story collections, including *The Old Boys*, *The Day We Got Drunk on Cake* and *The Children of Dynmouth*.

Elie Wiesel, 87, died July 2 at his home in Manhattan. Born in Romania, Wiesel was the author of 60 books, the best known of which is his Night trilogy—*Night* (1960), *Dawn* (1961) and *Day* (1962)—in which he recounted his experiences in Auschwitz and Buchenwald. A lifelong activist and lecturer on the Holocaust, he was awarded the Nobel Peace Prize in 1986.
Erica Abeel: Wild Girls; David A. Adler (and Edward Miller, Illus.): Circles; Rennie Airth: The Death of Kings; Rabih Alameddine: The Angel of History; Kathleen Alcala: The Deepest Roots: Finding Food and Community on a Pacific Northwest Island; Brian Alexander: Glass House: The 1% Economy and the Shattering of the All-American Town; Tasha Alexander: A Terrible Beauty; Annmaria Alferi: The Idol of Mombasa; R. W. Alley: Mitchell on the Moon; Jill Amadio: Digging Up the Dead; Christine Ammer: Unsung: A History of Women in American Music; Laurie Halse Anderson: Ashes; Jacob M. Appel: Caudrophobia & Fata Morgana: Stories; The Topless Widow of Herkimer Street: Stories; Michael J. Arlen (and Alice Arlen): The Huntress: The Adventures, Escapades, and Triumphs of Alicia Patterson; Avatrix, Sportswoman, Journalist, Publisher; Sandy Asher (and Mark Fearing, Illus.): Chicken Story Time; Amanda Ashley: Twilight Dreams; Jeannine Atkins: Finding Wonders: Three Girls Who Changed Science; Stone Mirrors: The Sculpture and Silence of Edmonia Lewis; Laura Atkins (and Stan Yogi and Yutaka Houlette, Illus.): Fred Korematsu Speaks Up;


Meg Cabot: The Boy Is Back; Anne Carson: Float; Mary Carter: Home With My Sisters; Ellen Cassidy, Transl. (and Yermiyahu Ahron Taub, Transl.): Oedipus in Brooklyn and Other Stories by Blume Lempel; C. S. Challinor: Judgment of Murder; Mary Higgins Clark (and Alafair Burke): The Sleeping Beauty Killer; Rachel Cohn (and David Levithan): The Twelve Days of Dash and Lily; Michael Connelly: The Wrong Side of Goodbye; Daniel Connolly: The Book of Isiatis: A Child of Hispanic Immigrants Seeks His Own America; Sybilla Avery Cook: Drawn Together in Art . . . in Love . . . in Friendships: The Biography of Caldecott Award–Winning Authors Berta and Elmer Hader; Robert Coram: Double Ace: The Life of Robert Lee Scott Jr., Pilot, Hero, and Teller of Tall Tales; Peter Cozzens: The Earth Is Weeping: The Epic Story of the Indian Wars for the American West; Sharon Creech: Moo; Julie Cross (and Mark Perini): You Before Anyone Else; Shutta Crum (and Lee Wildish, Illus.): William and the Witch’s Riddle;

Anne Margaret Daniel, Ed.: Beauty’s Hour: A Phantasy (Olivia Shakespear, Author); Steve Danley: Management Diseases and Disorders: How to Identify and Treat Dysfunctional Managerial Behavior; Patty Dann: The Butterfly Hours: Transforming Memories into Memoir; Jacqueline Davies (and Sydney Hanson, Illus.): Panda Pants; Fiona Davis: The Dollhouse; Arthur Day: The Dog Books: Eight Tails in Noir; Michael de Guzman: I, Maxim Waxman; Melissa de la Cruz: Something in Between; Corinne Demas (and Artemis Roehrig; David Catrow, Illus.): Are Pirates Polite?; Corinne Demas (and Artemis Roehrig; John Sandford, Illus.): Does a Fiddler Crab Fiddle?; Dennis Denenberg (and Lorraine Roscoe): 50 American Heroes Every Kid Should Meet (2nd Revised Edition); Yvonne Dennis (and Arlene Hirschfelder and Shannon Rothenberger Flynn): Native American Almanac: More Than 50,000 Years of the Cultures and Histories of Indigenous Peoples; Phillip DePoy: The English Agent; Carl Deuker: Gutless; Sylviane A. Diouf, Ed. (and Komozzi Woodard, Ed.): Black Power 50; Lisa Doan: The Alarming Career of Sir Richard Blackstone; Kathleen Donohoe: Ashes of Fiery
Weather: Ann Douglas: Parenting Through the Storm; Patrick A. Duran: Dawn Approached; Ensayo Filosofico: Gleich und die Anderen; Paths of Knowledge; Sesse e L’Altro; Hugh Dutton: Bad Blood;

Michelle Edwards, and G. Brian Karas, Illus.: A Hat for Mrs. Goldman: A Story About Knitting and Love; Dave Eggers: Heroes of the Frontier; Anne Elizabeth: The Soul of a SEAL; Diane Elliott: When Volcanoes Wake; Susan Middleton Elya (and Juana Martinez-Neal, Illus.): La Madre Goose: Nursery Rhymes for Los Niños; Delia Ephron: Siracusa; Louise Erdrich: Makoons;


Your Creative Project Even if You’re a Lazy, Self-Doubting Procrastinator Like Me: Gordon Korman: Jingle; Stephen Krensky (and Lynn Munsinger, Illus.): Dinosaurs in Disguise; Bobi Kress: Organisms That Grow;


Susan Mallery: Daughters of the Bride; Leonard S. Marcus: Comics Confidential: Thirteen Graphic Novelists Talk Story, Craft, and Life Outside the Box; Michael Marissen: Bach & God; Sandra Markle: Gasparilla’s Gold; The Great Leopard Rescue: Saving the Amur Leopards; Sandra Markle (and Howard McWilliam, Illus.): What If You Had an Animal Nose; Susan Marsh (and Florence Rose Shepard): Saving Wyoming’s Hoback: The Grassroots Movement that Stopped Natural Gas Development; Simone Martel: A Cat Came Back; Ann M. Martin (and Laura Godwin, and Brett Helquist, Illus.): The Doll People’s Christmas; Alice Mattison: The Kite and the String: How to Write with Spontaneity and Control—and Live to Tell the Tale; Pamela Mayer (and Deborah Melmon, Illus.): Chicken Soup, Chicken Soup; Stacy McAnulty (and Joy Ang, Illus.): 101 Reasons Why I’m Not Taking a Bath; Stacy McAnulty (and Joanne Lew-Veciethoff, Illus.): Beautiful; Stacy McAnulty (and Mike Boldt, Illus.): It’s Not a Dinosaur!; Stacy McAnulty (and Edward Hemingway, Illus.): Mr. Fuzzbuster Knows He’s the Favorite; Barbara McClintock: Lost and Found: Adèle & Simon in China; Emily Arnold McCully: Pete Likes Bunny; Matthew McElligott: The Weather Disaster; Jay McInerney: Bright, Precious Days; Rae Meadows: I Will Send Rain; Brian Meehl: Blowback ’07: When the Only Way Forward Is Back; Daniel Menaker (and Roz Chast, Illus.): African Soelte: Ingenious Misspellings That Make Surprising Sense; Christopher Merrill: Self-Portrait with Dogwood; K. H. Mezak: Book of Angels; Richard Michelson (and Karla Gudeon, Illus.): The Language of Angels: A Story About the Reinvocation of Hebrew; Andrew Miller: If Only the Names Were Changed; Ben Miller: The Aliens Are Coming! Behind Our Search for Life in the Universe; Claudia Mills (and Katie Kath, Illus.): The Trouble with Babies; Claudia Mills: Write This Down; Eugene Mirabelli: Renato After Alba; Anne Elizabeth Moore (and the Ladydrawers, Illus.): Threadbare: Clothes, Sex & Trafficking; Stephen Moore (and Cerph Colwell): Cerpe’s Up: A Musical Life with Bruce Springsteen, Little Feat, Frank Zappa, Tom Waits, CSNY, and Many More; Marissa Moss: Carracagio: Painter on the Run; Diane Mulcahy: The Gig Economy: The Complete Guide to Getting Better Work, Taking More Time Off, and Financing the Life You Want; Sabina Murray: Valiant Gentlemen;

Weam Namou: Healing Wisdom for a Wounded World: My Life-Changing Journey Through a Shamanic School; Donna Jo Napoli (and Christina Balit, Illus.): Tales from the Arabian Nights: Stories of Adventure, Magic, Love, and Betrayal; Lisa Napoli: Ray & Joan: The Man Who Made the McDonald’s Fortune and the Woman Who Gave It All Away; Caroline Nastro (and Vanya Nastanlieva, Illus.): The Bear Who Couldn’t Sleep; David Neilson (and Terry Will, Illus.): Dr. Fell and the Playground of Doom; Craig Nelson: Pearl Harbor: From Infamy to Greatness; Donald F. Nelson: Chappaquiddick Tragedy: Kennedy’s Second Passenger Revealed; Alyson Noël: Five Days of Famous; Barbara Novack: Do Houses Dream?;

Carol O’Connell: Blind Sight; Kevin O’Connell: Beyond Derrymane: A Novel of Eighteenth Century Europe; Susan Oleksiw: When Krishna Calls;

Susan Quinn: Eleanor and Hick: The Love Affair That Shaped a First Lady;


Harlequin Lawsuit’s Happy Ending

BY PATRICIA MCLINN

A $4.1m class action settlement between Harlequin, the world’s largest romance publisher, and 1,200 of its authors won approval on June 30, 2016 from the United States District Court for the Southern District Court of New York. The class consisted of all Harlequin authors who signed book contracts with Harlequin between 1990 and 2004. The lawsuit, filed in July 2012, stemmed from Harlequin’s practice of sublicensing e-book rights through a subsidiary, which resulted in authors receiving 3 to 4 percent of net profits from their works rather than the contractual 50 percent.

When originally posting the news of the lawsuit to the Authors Guild website on July 1, we spoke of the case from the Guild’s perspective, having assisted the attorneys from behind the scenes. Patricia McLinn contacted us after our post and let us in on the following story, which recounts how a few groups of dedicated authors worked tirelessly to pull the case together and bring the matter to court.

Sitting in front of me is the settlement check I received from a class action lawsuit against Harlequin. Because the lawsuit was settled out of court, there was no winner legally. That’s not how it feels. Not at all. Let me tell you, the authors won.

In the Beginning

In spring 2011 a group of authors shepherded by Ginger Chambers and Barbara McMahon—with me as part of the flock—hired Elaine English as our attorney to make a legal assessment of clauses governing e-book rights in various Harlequin contracts. Under contracts that spanned several years before e-books became truly commercially viable, e-book rights were lumped under “All Other Rights.” These contracts had been written and signed years earlier, but because of the duration of Harlequin contracts they were still in force. And the “All Other Rights” clause said Harlequin and the author would split whatever monies came in from the exercise of these rights 50-50.

When books signed under those contracts were later digitized, however, it became clear the authors were getting way, way less than their 50 percent share. Harlequin’s explanation was that our contracts had been signed with Harlequin Switzerland, but the e-books were published by Harlequin Toronto, and golly gee, Harlequin Switzerland sold the rights to Harlequin Toronto for 6 percent of the cover price. So Harlequin Toronto sent Switzerland 6 percent, Switzerland kept 3 percent, the author received 3 percent . . . and Harlequin Toronto kept all the rest. (By the way, this agreement between the various Harlequins surfaced well after the contracts were signed; authors were never informed about it.)

After the original group of authors disbanded, I formed a second one (that’s another story that I won’t bore you unless we’re in a bar somewhere some night, though the group did some definite good for many Harlequin authors). An offshoot of that second ad hoc group of authors, led by Day Leclaire, pooled our money and hired lawyer David Wolf of David Wolf Law, PLLC, to talk to Harlequin about living up to its contract. A word about Harlequin contracts: they are essentially not negotiable, with extremely limited exceptions. You might be stunned to see a list of the major authors Harlequin could have kept if it had been willing to negotiate a bit. It chose instead to let those authors walk. You either accept the contract as Harlequin writes it or you don’t publish with Harlequin. (The latter became my choice around 2008.) The company was able to do this because of the...
structure and business climate of publishing at that
time. I had a few excellent editors among the 34 I had
for 25 books (yes, you read that right . . . editor turn-
over might lead some to suspect Harlequin didn’t treat
its editors well, either), but my overall experience with
Harlequin was, let’s say, “not good.” After 19 years
with the publisher I was disheartened, depressed and
done. I didn’t think I would write for publication ever
again. I didn’t even want to try.

By 2011, however, I was back on track. I was pub-
lishing backlist books as an indie, writing again, and
publishing those new books as an indie. And, thanks
to Harlequin’s machinations, a good jolt of indigna-
tion helped return me to my feisty self. My reaction
to what Harlequin was doing was summed up when,
after reading one of the company’s missives to authors
that summer, I said aloud, “How stupid do you think I
am?” The answer turned out to be a whole lot stupider
than I am—or than most authors are. But it took quite
a while to make that point to Harlequin. I’m not sure
the publishing house gets it even now.

Certainly in late 2011, the powers that be thought
they could make David Wolf and those pesky authors
go away by refusing to talk. We didn’t go away.

From Talking to Suing

David Wolf, bless his heart, took on the case as a po-
tential class action lawsuit, Keiler v. Harlequin, which
he, along with Michael Boni and John Sindoni of Boni
& Zack, LLC, filed in July 2012. The three named plaint-
iffs on whose behalf the suit was filed were authors
Barbara Keiler (who writes as Judith Arnold), Linda
Barrett and Gay Wilson (who publishes as Gayle
Wilson).

Harlequin’s reaction? “This is the first we’ve heard
of it.” That is what’s known in writing as a Big Fat Lie.
Remember, David Wolf had been talking to the com-
pany for the better part of a year at that point.

The suit had plenty of twists and turns. At one
point, in 2013, it was completely dismissed. The law-
yers decided to appeal. Mind you, they were Not Paid
a Cent all this time. Once they started down the class
action road, all the work was done on contingency.
(Yes, they’ve been paid out of the settlement now—
getting nowhere near what they could have earned
through ordinary billable hours for the years of work
they put into this.)

In spring 2014, the appeals court upheld the most
important element of the case, and the next day, the
sale of Harlequin to HarperCollins was announced.
How would that affect things? We had no idea.

The appeals court sent the case back to the same
judge, who to my nonlegal eye, had not seemed to
grasp much of anything about the issues. How could
we hope to fare better than the first time around with
him? Within the month, that judge died as the result of
a fall. I am not kidding you.

Turning Point

The new judge took a different approach. In October
2014, the 1,200 authors affected by the contract clause
were certified as a class. There was champagne that day.

The work wasn’t over. There was discovery. There
were depositions. Harlequin subpoenaed at least two
authors groups, demanding from one of them all com-
 munications among its members. So much for privacy.
It required an onerous effort for a volunteer-run or-
ganization to gather all the information and, as expected,
it got Harlequin nowhere.

If I were writing this in a novel, I’d let the reader
know that the big corporation had done it just be-
cause it could—to punish those upstart authors in any
way possible. Finally, in June 2016, a settlement of the
Harlequin lawsuit was announced. While maintain-
ing that it had never done anything wrong, Harlequin
agreed to pay $4.1 million. The settlement checks from
the Harlequin lawsuit began arriving in authors’ mail-
boxes Monday, September 12.

The checks are nice. Very nice. But let me tell you
when the authors really won.

It was back in July 2011. I told a few fellow authors
that I was going to write a letter to Harlequin through
Elaine English to let the company know that I was not
as stupid as it thought. Several of the authors said, “We
want in on that, too, and we’ll share the expense.” One
author, Susan Gable, said she’d start an online group
for us. I said, “We don’t need an online group. It will
only be a handful of us.” She was right. I was wrong.
By the end of the week, we had a hundred members. I
remember tears coming into my eyes when we topped
three hundred. And more came.

Most vividly, I remember tears from some of the
communications from these authors. They were risk-
ing their livelihoods, but felt they had to join the group
because what Harlequin was doing was simply wrong.
Some had written for Harlequin for 30 years or more;
they felt betrayed and would never write for them
again. Others had just achieved their dream of selling
their first book to Harlequin and they were scared, but
this was too important to ignore. They were from all
over the United States and Canada, from the United
Kingdom, Australia and New Zealand. A few couldn’t
afford the $35 each of us chipped in to start, but would
send me $5 a month until they had paid their share.
Some wrote checks for well over their share to help
cover those who struggled to pay.
And those in the subgroup that first hired David Wolf became warriors. They collected, organized and dug through contracts and correspondence. They taught themselves legal concepts. They searched corporate reports. They asked brilliant questions. They did what needed to be done.

You will notice that those three hundred plus authors were about a quarter of the class. The remaining nine hundred owe much gratitude to David, Michael and John, to Day, Barbara, Linda and Gay. They also owe gratitude to those three hundred plus.

Precedents Set
And here’s something those three hundred plus will have forever—the knowledge that they were part of a group of authors who came together, stood up and said, This Isn’t Right.

There is no legal precedent set by this case. But there is that precedent of pulling together, and it’s a powerful one.

I hope Harlequin and all publishers take notice, so that it is not necessary to do this again. Even more, I hope authors take notice, in case it is.

Okay, and the check’s not bad either.

Patricia McLinn is a USA Today bestselling author of mystery and romance novels. An editor at The Washington Post for 23 years, she published traditionally for 25 years, became a hybrid author and is now indie. The latest of her 40-something titles is Look Live, the fifth book in the Caught Dead in Wyoming series, released December 2016.

This piece was originally published as a blog on the author’s website, www.PatriciaMcLinn.com, on September 14, 2016. It appears here in a lightly edited version with the permission of Ms. McLinn.
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