

AUTHORS GUILD

Fall 2010/Winter 2011 **BULLETIN**

Today's Lesson: HOW TO TILT THE TABLE

"The Help," by Kathryn Stockett

Author: \$3.75 HC \$2.28 E-Book → E-Loss = -39%

Publisher: \$5.25 HC \$6.31 E-Book → E-Gain = +20%

"Hell's Corner," by David Baldacci

Author: \$4.20 HC \$2.28 E-Book → E-Loss = -45%

Publisher: \$6.00 HC \$6.31 E-Book → E-Gain = +5%

"Unbroken," by Laura Hillenbrand

Author: \$4.05 HC \$3.38 E-Book → E-Loss = -39%

Publisher: \$6.00 HC \$9.62 E-Book → E-Gain = +20%

Q.E.D.

Authors' Royalties vs. Publishers' Gross Profit
Hardcover vs. E-Book

E-BOOK ROYALTY MATH

Part 1. The House Always Wins • Part 2. An Interim Fix

Scott Turow: One Year After Amazon's Blackout of Macmillan

Did Apple Save Barnes & Noble?

Donating Literary Papers: Paul Brodeur's Cautionary Tale

LETTERS TO THE EDITOR

I LOVE the Authors Guild Bulletin, and now I even love your typos. I nominate this one for the all-time-best typo award: the change of Justin Swingle's name to "Swindle" starting in the second graph on p. 16 of the new Bulletin.

—Betsy Robinson
New York, NY

The Guild encourages members to write to the *Bulletin*. Letters should be sent to "Letters to the Editor," The Authors Guild, 31 East 32nd Street, 7th Floor, New York, NY 10016. They can also be faxed to (212) 564-5363, or sent via e-mail to staff@authorsguild.org (type "Letters to the Editor" in the subject line). Letters may be edited for length, grammar and clarity.

Thanks for the good humored alert. Amusing typos are always easier to acknowledge than just plain stupid ones, and we agree, this is one of our best.

—Ed.

ALONG PUBLISHERS ROW

BY CAMPBELL GEESLIN

HOAX HISTORY: **Melissa Katsoulis** is the author of *Literary Hoaxes: An Eye-Opening History of Famous Frauds*. The British journalist begins her account in the early 1730s with **William Lauder**, "a bitter and resentful" Scotsman whose hoax, if it had succeeded, could have "ruined the reputation of poet **John Milton**."

The book devotes several pages each to such notable hoaxers as **H. L. Mencken**, **Jean Shepherd** and **Romain Gary** and to notorious recent cases such as **J. T. Leroy** and **James Frey**, who created faux memoirs.

The author concludes: "Books—whatever form they take—will always ask us to enter into a contract of trust with them. For as long as there are publishers to bestow upon an author the incredible power of seeing their work in print, there will be writers who abuse, pervert and willfully misconstrue the printed word. But . . . the world would be a much duller place without them."

NEW TRICKS: E-books for children are becoming interactive. **David Kirk's** *Miss Spider's Tea Party* has an iPad version. A child clicks to find hidden surprises, work a jigsaw puzzle or color an illustration. *Alice* for the iPad tells the story of Wonderland in 50 color prints. The child interacts by tilting or shaking the screen to move a character.

In **Dr. Seuss's** *ABC* and *The Cat in the Hat*, a child can swipe through the pictures and make the words zoom out of the text and land on the pictures.

Would you trust a small child with your iPad?

SHOW & TELL: **Clive Young** lives in Rockville Center, N.Y. He is the author of *Crank It Up* and *Homemade Hollywood*. He often speaks at schools and libraries,

but in a recent appearance he neither read from his books nor did much talking.

Most writers are reluctant to discuss what they are working on, but Young told an audience at the White Plains, N.Y., library that his next book "was going to be a history of movie stunts and special effects." His program used video and PowerPoint. He showed illustrative clips from silent films, scenes from antique outer space films and several wild car chases. He said that the program he presented was research for the book he was writing.

But after the program, he did what authors are expected to do: He signed copies of his previous books for purchasers from the audience.

UPSTART: In recent months, *The Los Angeles Times*, *The Washington Post*, *The Chicago Tribune* and *The Boston Globe* have all folded their sections devoted to books. The trend has been to consolidate book reviews into other sections. In September, *The New York Times* revealed that *The Wall Street Journal* was going to have a book review section insert in its weekend edition.

The Times said, "The paper's book reviews are among the more popular features with readers. And there are signs that the advertising market for the book publishing business is picking up."

HEAVY: **Jeannie Vanasco**, on the staff at *Lapham's Quarterly*, began a review in *The New York Times Book Review* with the following: "**Paul Valery** said that a poet is like a man who carries huge weights up to a roof and drops them all at once on the head of a passer-by."

Continued on page 34

THE AUTHORS GUILD BULLETIN

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Overheard

"I dreamed of having a book of my own, of writing one that I could put on a shelf. Please, no matter how we advance technologically, please don't abandon the book. There is nothing in our material world more beautiful."

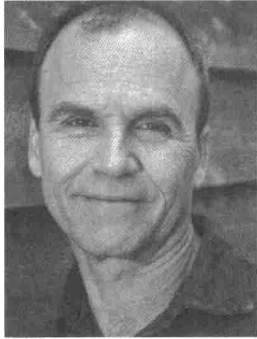
—Patti Smith, on accepting the
National Book Award for Just
Kids, November 17, 2010

Doubling Up

You may have noticed that the Guild has been particularly busy of late: we've launched a blog and Facebook page (both are in beta), published an opinion piece in *The New York Times*, and helped prepare Scott Turow's recent testimony before the Senate Judiciary Committee, among other tasks and initiatives that we'll announce soon. Something had to give, so we present this 60-page double issue of the *Bulletin*. We'll resume quarterly publication with our next issue.

From the President

BY SCOTT TUROW



This column follows up on my prior attempt to answer the question of whether e-books and e-readers are good for authors. As I pointed out in my last column, there are some aspects of e-readers that make our world broader. First, anyone with a wireless connection, no matter how remote their locale, or

how immobile they otherwise might be, can buy any book that has been digitized. That's bound to increase readership, enrich our literary culture and spur book sales. Second, e-publishing may help break down some of the barriers authors have experienced to entering the traditional publishing world.

But there are dramatic downsides to e-books, too, for authors. None of them is inherent in the nature of the technology, but arise instead as a consequence of the way e-books are being marketed in the U.S. Right now it appears that e-book retailing is going to put downward pressure on author's earnings for two reasons: because e-books are already dragging down prices for hardcovers, and because publishers are trying to pay a lower royalty rate on e-books than they have traditionally paid on physical books.

To explain where we are, and how we got here, several articles in this *Bulletin* are devoted to examining the state of e-books, authorship and publishing one year after a watershed event in the industry: Amazon's attempt to protect its near complete dominance of the rapidly growing e-book market by punishing a publisher that dared to challenge its terms.

On January 29, 2010, Amazon shut down sales of nearly all of Macmillan's books, removing the "buy buttons" from the print and electronic editions of thousands of titles. Macmillan authors, many of whom had linked their websites to Amazon pages that were suddenly disabled and useless, found themselves cut off from readers who frequented the dominant online bookstore.

Amazon's stunning move was a preemptive strike, an attempt to keep Macmillan from going through

with its plan to shift to an "agency model" for selling e-books. Macmillan, which immediately saw its online sales plummet, stood firm and prevailed: Amazon ended the blackout after a week.

The story of Amazon's blackout and its aftermath reveals much about the high-stakes device and format war that's reshaping the publishing industry. Our account of that showdown, "How Apple Saved Barnes & Noble. Probably," begins on page 13.

Nearly everything that goes on in the book industry today is affected by Amazon's dominance in every growth area of bookselling: e-books, downloadable audiobooks, online print books (and especially its long-tail subset, books printed on demand), and online used books. Amazon has gained its preeminence through its own growth and through a series of key acquisitions in the past six years: AbeBooks, Audible, BookSurge, and Mobipocket, among others.

Amazon's sway even affects e-book royalty rates. Fear of being squeezed by Amazon has played, surely, a strong role in publishers' insistence on paying e-royalties based on net income rather than retail list price: if Amazon were to use its dominance to insist on deeper discounts for e-books, publishers did not want to continue to pay authors based on retail list price.

This doesn't begin to justify lowball e-book royalties of 25 percent of net income, however, a rate that is contrary to the longstanding tradition of splitting the net proceeds in trade book publishing. (Have a look at the subsidiary rights clauses in your book contract for a clear illustration of this.) Current bargain basement e-book royalty rates introduce all sorts of problems, as the accompanying article, "E-Book Royalty Math: The House Always Wins," shows. Compared to hardcover sales, publishers generally do better with e-books, and authors always do worse.

This distorts a publisher's incentives in a dangerous way: for the first time, publishers have a substantial conflict of interest in how they deploy their marketing resources for a book. The business logic of favoring electronic over hardcover editions at every turn is impeccable, unless you're the author.

So, are e-books good for authors? It depends. If the industry can avoid Amazon taking even greater control of book retailing, if publishers' conflict of interest in marketing e-books over print does not wreak too much damage, if royalty rates improve, then yes. Otherwise, we'll have to see. It's a complex and rapidly evolving industry. We'll do our best to stay on top of it for you. ♦

E-Book Royalty Math

Part I: The House Always Wins

Text of a February 3, 2011 e-mail alert to Guild members.

E-book royalty rates for major trade publishers have coalesced, for the moment, at 25 percent of the publisher's receipts. As we've pointed out previously, this is contrary to longstanding tradition in trade book publishing, in which authors and publishers effectively split the net proceeds of book sales (that's how the industry arrived at the standard hardcover royalty rate of 15 percent of list price). Among the ills of this radical pay cut is the distorting effect it has on publishers' incentives: publishers generally do significantly better on e-book sales than they do on hardcover sales. Authors, on the other hand, *always* do worse.

How much better for the publisher and how much worse for the author? Here are examples of author's royalties compared to publisher's gross profit (income per copy minus expenses per copy), calculated using industry-standard contract terms:

The Help, by Kathryn Stockett

Author's Standard Royalty:
\$3.75 hardcover; \$2.28 e-book.
Author's E-Loss = -39%
Publisher's Margin:
\$4.75 hardcover; \$6.32 e-book.
Publisher's E-Gain = +33%

Hell's Corner, by David Baldacci

Author's Standard Royalty:
\$4.20 hardcover; \$2.63 e-book.
Author's E-Loss = -37%
Publisher's Margin:
\$5.80 hardcover; \$7.37 e-book.
Publisher's E-Gain = +27%

Unbroken, by Laura Hillenbrand

Author's Standard Royalty:
\$4.05 hardcover; \$3.38 e-book.
Author's E-Loss = -17%
Publisher's Margin:
\$5.45 hardcover; \$9.62 e-book.
Publisher's E-Gain = +77%

So, everything else being equal, publishers will naturally have a strong bias toward e-book sales. It certainly does wonders for cash flow: not only does

the publisher net more, but the reduced royalty means that every time an e-book purchase displaces a hardcover purchase, the odds that the author's advance will earn out—and the publisher will have to cut a check for royalties—diminishes. In more ways than one, the author's e-loss is the publisher's e-gain.

Inertia, unfortunately, is embedded in the contractual landscape. If the publisher were to offer more equitable e-royalties in new contracts, it would ripple through much of the publisher's catalog: most major trade publishers have thousands of contracts that require an automatic adjustment or renegotiation of e-book royalties if the publisher starts offering better terms. (Some publishers finesse this issue when they amend older contracts, many of which allow e-royalty rates to quickly escalate to 40 percent of the publisher's receipts. Amending old contracts to grant the publisher digital rights doesn't trigger the automatic adjustment, in the publisher's view.) Given these substantial collateral costs, publishers will continue to strongly resist changes to their e-book royalties for new books.

Resistance, in the long run, will be futile. As the e-book market continues to grow, competitive pressures will almost certainly force publishers to share e-book proceeds fairly. Authors with clout simply won't put up with junior partner status in an increasingly important market. New publishers are already willing to share fairly. Once one of those publishers has the capital to pay even a handful of authors meaningful advances, or a major trade publisher decides to take the plunge, the tipping point will likely be at hand.

Our assumptions and calculations for the figures above follow.

Doing the Numbers: Hardcover

To keep things as simple as possible, we assumed that for hardcovers: (1) the publisher sells at an average 50 percent discount to the wholesaler or retailer (2) the royalty rate is 15 percent of list price (as it is for most hardcover books, after 10,000 units are sold), (3) the average marginal cost to manufacture the book and get it to the store is \$3, and (4) the return rate is 25 percent (a handy number—if one of four books produced is returned, then the \$3 marginal cost of producing the book is spread over three other books, giving us a return cost of \$1 per book). We also rounded up retail list price a few pennies to give us easy figures to work with.

The Help, by Kathryn Stockett has a hardcover retail list price of \$25. The standard royalty (15 percent of list) would be \$3.75. The publisher grosses \$12.50 per book at a 50 percent discount. Subtract from that the author's royalty (\$3.75), cost of production (\$3),

and cost of returns (\$1), and the publisher nets \$4.75 on the sale of a hardcover book.

Hell's Corner by David Baldacci, has a retail list price is \$28. The standard royalty is \$4.20; the publisher's gross is \$14. Subtract royalties (\$4.20), production and return costs (\$4), and the publisher nets \$5.80.

Unbroken, by Laura Hillenbrand has a hardcover list price of \$27. Standard royalties are \$4.05. The publisher's gross is \$13.50. Subtract royalties of \$4.05 and production and return costs of \$4, and the publisher nets \$5.45.

Doing the Numbers: E-Book

E-book royalty rates are uniform among the major trade publishers, but pricing and discounting formulas fall into two camps: the reseller model favored by Amazon (Random House is the only large trade publisher using this model) and the agency model introduced by Apple a year ago. (See "How Apple Saved Barnes & Noble. Probably," page 13, for more information on these models.)

Under the reseller model, the online bookseller pays 50 percent of the retail list price of the book to the publisher and sells the book at whatever price the bookseller chooses (for bestsellers, Amazon typically sells Random House e-books at a significant loss). Random House frequently prices the e-book at the same price as the hardcover until a paperback edition is available.

Under the agency model, the online bookseller pays 70 percent of the retail list price of the e-book to the publisher. The bookseller, acting as the publisher's agent, sells the e-book at the price established by the publisher, but the publisher is constrained by agreement with Apple and others to set a price significantly below that for the hardcover version.

The unit costs to the publisher, under either model, are simply the author's royalty and the encryption fee, for which we'll use a generous 50 cents per unit.

Here's the math:

The Help has an e-book list price of \$13 and is sold under the agency model. Publisher grosses 70 percent of retail price, or \$9.10. Author's royalty is 25 percent of publisher receipts, or \$2.28. Publisher nets \$6.32. (\$9.10 minus \$2.28 royalties and \$0.50 encryption fee.)

Hell's Corner is also sold under the agency model at a retail list price of \$15 list price. Publisher grosses 70 percent of retail price, \$10.50. Author's royalty is 25 percent of publisher receipts, or \$2.63. Publisher nets \$7.37. (\$10.50 minus \$2.63 royalties and \$0.50 encryption fee.)

Unbroken is sold by Random House under the reseller model at a retail list price of \$27. Publisher

grosses \$13.50 on the sale. Author's royalty, at 25 percent, is \$3.38. Random House nets \$9.62. (\$13.50 minus \$3.38 royalties and \$0.50 encryption fee.)

Part II: An Interim Fix

Text of a February 11, 2011 e-mail alert to Guild members.

Negotiating a publishing contract is frequently contentious, but authors have long been able to take comfort in this: once the contract is signed, the interests of the author and the publisher are largely aligned. If the publisher works to maximize its revenues, it will necessarily work to maximize the author's royalties. This is the heart of the traditional bargain, whereby the author licenses the publisher long-term, exclusive book rights in the world's largest book market in exchange for an advance and the promise of diligently working to the joint benefit of author and publisher.

Now, for the first time, publishers have strong incentives to work against the author's interests.

As we discussed in our last alert, authors and publishers have traditionally acted as equal partners, splitting the net proceeds from book sales. Most sublicenses, for example, provide for a fifty-fifty split of proceeds, and the standard hardcover trade book royalty—15 percent of the retail price—represented half of the net proceeds from selling the book when the standard was established.* But trade book publishers currently offer e-book royalties at precisely half what the terms of a traditional proceeds-sharing arrangement would dictate—paying just 25 percent of net income on e-book sales. That's why the shift from hardcover to e-book sales is a win for publishers, a loss for authors.

*A traditional industry rule of thumb was that the price of a hardcover should be five or six times the cost of production. (John P. Dessauer, *Book Publishing: What It Is, What It Does*. R.R. Bowker 1974, p. 92). To keep the math simple, let's assume that it's priced at five times the cost of production, that there are no returns, and that the bookseller pays the publisher 50 percent of the list price for the book. Of the 50 percent the publisher receives, subtract 20 percent for the cost of production (one-fifth the retail price) and the net proceeds are 30 percent of the retail list price. Split that in two, and one arrives at the author's standard hardcover royalty, 15 percent of the retail list price. (A current rule of thumb is that the cost of producing a hardcover is about 15 percent of the retail price, but the actual costs vary widely.)

The Pushback

The publisher's standard reply to this—which we heard yet again after last week's alert—is a muddle, conflating fixed costs with variable costs. Let's address that before we move on.

For any book, a publisher has two types of fixed costs: those attributable to the publisher's operations as a whole (office overhead, investments in infrastructure, etc.) and those attributable to the particular work (author's advance, editing, design). The variable costs for the book are the unit costs of production. These costs (print, paper, binding, returns, royalty) tell a publisher how much more it costs to get, say, 10,000 additional hardcover books to stores and sell them. The publisher's gross profit per unit (unit income minus unit costs) is the amount against which the author's royalties are traditionally and properly measured. With this sort of analysis, a publisher can compare the gross profitability per unit of, for example, a hardcover to a trade paperback edition.

Investments in technology change nothing. Publishers never argued, for example, that hardcover royalties needed to be cut when they began equipping their editorial and design staffs with expensive (at the time) personal computers, buying pricey computers and software for their designers, tying those computers together with ever-more-powerful Ethernet cables and routers, and hiring support staff to maintain it all. Publishers simply took their share of the gross profits from book sales and applied it to all of their costs, as they always have. What remains after deducting those costs is deemed the publisher's net profit. Similarly, authors take their share of the proceeds of their book sales and apply it to their overhead (food, clothing, shelter, and computer technology) and costs (their labor and out-of-pocket costs to write the manuscript). What remains is the author's net profit.

The proper question is this: how much better off is a publisher if it sells a book, print or digital, than it is if it doesn't? That is what we measured. We then compared that to the author's print and digital royalties per book.

Publisher's E-Gains + Author's E-Losses = E-Bias

Applying standard trade hardcover and e-book terms to Kathryn Stockett's *The Help*, David Baldacci's *Hell's Corner*, and Laura Hillenbrand's *Unbroken*, we found that publishers do far better by selling e-books than hardcovers (realizing "e-gains" of 27 percent to 77 percent), while the authors do much worse (suffering "e-

losses" of 17 percent to 39 percent). Publishers can't help being influenced by the gains; e-bias will inevitably drive their decisions.

Some simplified examples show how e-bias plays out in publishing decisions:

1. *Promotional Bias*. Assume a publisher is contemplating whether to invest a portion of a book's limited marketing budget in stimulating the sale of digital books (paying for featured placement in the Kindle or Nook stores, perhaps) or in encouraging print sales through a promotion at physical bookstores. Either way, the publisher expects the investment to boost sales by 1,000 copies. A sensible publisher would spend the money to promote digital books, pocketing an additional \$1,570 to \$4,170 on those sales compared to hardcover sales. Such a decision, however, would cost Ms. Stockett, Mr. Baldacci, and Ms. Hillenbrand \$1,470, \$1,570, and \$670, respectively, in royalties.

2. *Print-Run Bias*. E-gains of 27 percent to 77 percent become irresistible when a publisher looks at risk-adjusted returns on investment, as any businessperson

*Publishers never argued that
hardcover royalties needed to be cut
when they began equipping
their staffs with expensive
personal computers.*

would. Once a book is typeset for print, the publisher must invest an additional \$30,000 to have 10,000 hardcover books ready for sale, using the figures from our prior alert. Once the digital template is created and distributed to the major vendors, on the other hand, there is no additional cost to having the book ready for purchase by an unlimited number of customers. Even the encryption fee (50 cents per book, at most) isn't incurred until the reader purchases the book. In this environment a publisher is nearly certain to keep print runs as short as possible, risking unavailability at bookstores, in order to decrease overall risk and maximize the publisher's return on investment.

Publishers, in short, will work to increase e-book sales at the inevitable expense of hardcover sales, tilting more and more purchases toward e-books, and their lower royalties. Publishers, as sensible, profit-maximizing entities, will work against their authors' best interests.

An Interim Solution: Negotiate an E-Royalty Floor

This won't go on forever. Bargain basement e-royalty rates are largely a result of negotiating indifference. The current industry standards for e-royalties began to gel a decade or so ago, when there was no e-book market to speak of. Authors and agents weren't willing to walk away from publishing contracts over a royalty clause that had little effect on the author's earnings.

Once the digital market gets large enough, authors with strong sales records won't put up with this: they'll go where they'll once again be paid as full partners in the exploitation of their creative work. That day is fast approaching, and would probably be here already, were it not for a tripwire in the contracts of thousands of in-print books. That tripwire? If the publisher increases its e-royalty rates for a new book, the e-royalty rates of countless in-print books from that publisher will automatically match the new rate or be subject to renegotiation.

So, what's to be done in the meantime? Here's a solution that won't cascade through countless backlist books: soften the e-bias by eliminating the author's e-loss. That is, negotiate for an e-royalty floor tied to the prevailing print book royalty amount.

Turning again to our last alert for examples, here are the calculations of e-losses and e-gains without an e-royalty floor:

The Help, by Kathryn Stockett

Author's Standard Royalty:
\$3.75 hardcover; \$2.28 e-book.
Author's E-Loss = -39%
Publisher's Margin:
\$4.75 hardcover; \$6.32 e-book.
Publisher's E-Gain = +33%

Hell's Corner, by David Baldacci

Author's Standard Royalty:
\$4.20 hardcover; \$2.63 e-book.
Author's E-Loss = -37%
Publisher's Margin:
\$5.80 hardcover; \$7.37 e-book.
Publisher's E-Gain = +27%

Unbroken, by Laura Hillenbrand

Author's Standard Royalty:
\$4.05 hardcover; \$3.38 e-book.
Author's E-Loss = -17%
Publisher's Margin:
\$5.45 hardcover; \$9.62 e-book.
Publisher's E-Gain = +77%

Here are the calculations with an e-royalty floor:

The Help, by Kathryn Stockett

Author's Adjusted Royalty:
\$3.75 hardcover; \$3.75 e-book.
Author's E-Loss = Zero
Publisher's Margin:
\$4.75 hardcover; \$4.85 e-book.
Publisher's E-Gain = +2%

Hell's Corner, by David Baldacci

Author's Adjusted Royalty:
\$4.20 hardcover; \$4.20 e-book.
Author's E-Loss = Zero
Publisher's Margin:
\$5.80 hardcover; \$5.80 e-book.
Publisher's E-Gain = Zero

Unbroken, by Laura Hillenbrand

Author's Adjusted Royalty:
\$4.05 hardcover; \$4.05 e-book.
Author's E-Loss = Zero
Publisher's Margin:
\$5.45 hardcover; \$8.85 e-book.
Publisher's E-Gain = +62%

While this wouldn't restore authors to full partnership status in the sale of their work, it would prevent them from being harmed as publishers try to maximize their revenues. This is only an interim solution, however. In the long run, authors will demand to be restored to full partnership, and someone will give them that status. ♦

Random House Adopts Agency Model for E-Books

As we went to press, Random House announced that it was joining the other big six publishers in selling e-books through the agency model—welcome news for the industry. Visit www.authorsguild.org for more information and analysis.

AG Member Survey

Authors Embrace E-books Professionally—Less So As Readers

BY KAREN HOLT

Despite a growing interest in digital publishing, authors are still more likely to view e-books as an unavoidable business reality—bringing both opportunity and threat—than something they enjoy reading, according to a new Authors Guild survey of its members.

While just over half of those responding to the survey said they'd had one or more of their books published electronically, only 36 percent said they'd read an e-book. Among those who had read an e-book, 61 percent said they prefer them over traditional books "never" (20 percent), "rarely" (29 percent) or "less than half the time" (12 percent).

"As a reader, I have no interest in e-books, but as a writer, I'm acutely aware that a tipping point has been reached, and e-books are now an essential format," commented one writer, expressing a sentiment shared by many of those surveyed. "I wouldn't consider publishing a book in print unless it were also available electronically."

Still, a minority are embracing the format—and not just for its sales potential. "E-books are surprisingly light, easy to read in bed, on a plane, in strange positions, require no storage (I have a house packed with books and no room for more)," one author wrote. "It's a dream come true for me. I still love books, but the Kindle is a true delight."

The online survey asked about e-book related attitudes and practices, as well as general book-buying habits. While the responses reflect a wide range of views, the authors seem to almost unanimously share one belief almost unanimously: E-book sales will be crucial to their future success.

Fighting for a Fair Deal

Of those whose books are available in digital form, 37 percent said their publisher had put out an electronic

Karen Holt is a freelance writer and editor. She lives in Stamford, Connecticut.

version of a title that was previously only in print only; 40 percent reported that their publisher had released the e-book concurrently or just after the print version; 2 percent said their publisher had released only an electronic version.

With publishers taking the lead in releasing e-books, many authors commented about the need to fight for a fair deal:

"As an author, I am waiting for better royalties with e-books before I let mine go into that form."

"I think it is important in signing an e-book contract with your publisher to establish the number of e-books that must be sold for the publisher to continue

***"As a reader, I have
no interest in e-books, but
as a writer, I'm acutely aware
that e-books are now
an essential format"***

to hold the rights on your book—otherwise with just the purchase of a few e-books (which the publisher could make) the rights will never revert to the author, thus keeping the author from re-selling or self-publishing the book."

"E-books are the future; authors must control it insofar as possible, and especially in regard to reprints of their published works. I have been solicited by big publishers for substandard e-book contracts on books still in print."

E-books Cut into Print

Among authors who are reading e-books, 53 percent said they'd increased their e-book reading during the previous six months; only 8 percent reported decreasing it.

That trend has implications for sales of traditional books; 30 percent of respondents said that since they began reading e-books they've been buying fewer print books. Most of the rest said they haven't changed the number of print books they buy since they started reading digital versions—though 5 percent said they are purchasing more.

For now—as this table shows—authors continue to be heavy buyers of print books.

A Matter of Strong Opinion

Feelings run high on the subject of e-books. More than 2000 members responded to our survey on the subject, and hundreds took the time to add comments. Here's a sampling.

I love my Kindle! As an author, I'm happy to find publishers looking "outside the box" for books. Traditional publishers are stuck in their "formula" guidelines for subject and word count.

E-books are just another way for writers rights/royalties to be usurped by publishers, another nail in the coffin of independent authorship.

I understand that they are irreversible as an invading technology, but my heart cannot embrace them.

The Kindle has made reading really fun again. My husband and I can read the same book at the same time without having to buy two copies and I'm never losing books under the bed or downstairs when I'm upstairs. Often Kindle reading feels like brain-to-brain transfer, writer to reader.

We'd better get on board if the iPad is any indication of what's to come.

I love the adjustable font size; I miss the covers.

I think the idea of self-publishing one's backlist is terrific. But in terms of launching new authors to the widest possible audience, I think print is still king.

When readers or members of the press ask me what I think of e-books, I say that anything that makes people more excited to read must be great. Privately, I think they are awful.

I like to dog-ear, to scribble in the margins. And it is sometimes a strange but wonderful experience to pull a book from my shelf that I read 20 or 30 years ago and read the marginalia. Even better to reread a book in my 50s, 60s, 70s that I read when I was in my 20s, 30s. Who was that reader who put exclamations points beside something so obvious and mundane?

My Kindle doesn't replace the book. It replaces a whole library of books.

Average number of print books purchased each month

1	27.1%
2 to 4	50.6%
5 to 9	14.6%
10 or more	4.8%
I don't buy print books	2.9%

This table, reflecting only authors who have read an e-book, reveals more modest purchasing habits.

Average number of e-books purchased each month

1	29.4%
2 to 4	28.5%
5 to 9	4.8%
10 or more	1.6%
I don't buy e-books	35.8%

Kindle Still King

Authors who read e-books are choosing the Kindle much more often than the flashier—and significantly pricier—iPad. The personal computer comes in second to the Kindle, with newer competitors from Sony and Barnes and Noble trailing far behind.

And remember how we were all going to be reading books on our phones? Only a quarter of survey re-

spondents have e-book apps on their phones. Even fewer are actually using them.

Among e-book readers, percentage who have read books on each device

Amazon Kindle	37.7%
Personal Computer	23.8%
Apple iPad	13.4%
Apple iPhone	10.2%
Barnes & Noble Nook	3.9%
Other	3.5%
Apple iPod Touch	2.9%
Sony Reader	2.4%
Phone using Google's Android operating system	1.6%
Blackberry	0.7%

E-books are Better Because . . .

Authors identified some clear benefits of e-books when asked to consider several criteria and respond to the statement: "The advantages of e-books over print that are significant to me as a reader include."

E-books rated well on portability; 82 percent agreed or strongly agreed that it is an advantage of the

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Donor Beware

A Breach of Trust at The New York Public Library

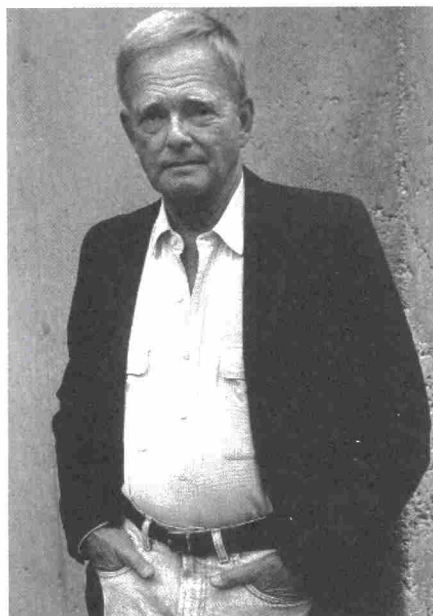
BY PAUL BRODEUR

In 1992, at the recommendation of Philip Hamburger, a colleague at *The New Yorker*, I donated papers relating to my 38-year career as a staff writer at the magazine to The New York Public Library. Among the papers were those connected to my investigations of the asbestos health hazard and its cover-up by the asbestos industry; the health risks posed by flesh-eating enzymes that had been introduced into household detergents; the depletion of the earth's ozone layer by man-made chemicals; the dangers of exposure to microwave radiation; the ills caused by exposure to electromagnetic fields emitted by power lines, and the land claims of the Native People of New England. The Charles J. Liebman Curator of Manuscripts when I made my donation was Ms. Mimi Bowling. Five years later, Ms. Bowling conducted my wife and me on a tour of the Library's Bryant Park Stack Extension, a vast underground vault beneath the park containing 42 miles of movable shelving units, where she showed us my papers, which had been processed and stored. She told us at the time that the documents we viewed constituted the permanent collection of my papers.

Following that tour, I donated a small amount of additional material to the Library, but was never contacted by anyone there until I received a letter from William Stingone, the present Charles J. Liebman

Paul Brodeur was a staff writer at *The New Yorker* for nearly 40 years. His articles won many awards and fellowships—among them a National Magazine Award, an American Association for the Advancement of Science Award, a Guggenheim Fellowship, and an Alicia Patterson Foundation Fellowship—and resulted in his being elected to the United Nations Environmental Program's Honour Roll for outstanding environmental Achievement. He is also a short story writer and novelist.

Curator of Manuscripts, on April 23, 2010—18 years after my original donation. In his letter, Stingone informed me that, "As you know, we did a preliminary inventory of your papers soon after they first arrived at NYPL in 1992," and "I am happy to report that we've now completed the final processing of those papers and your subsequent donations." In the course of final processing, he said, "we identified a substantial amount of material that we chose not to incorporate into the collection." He offered to send it to me within a month or, if I chose, he would "dispose of the material here." "Over the past several years," he explained, "we have had to become even more discerning as to what we retain. As I'm sure you understand, we need to manage our ever-diminishing resources, including space, even as our collection grows."



© Bill Ravanesi

Shortly after receiving Stingone's letter, I contacted Ms. Bowling, who had left the Library in 2001, after 13 years as Curator of Manuscripts. (She is now a consulting curator in private practice, as well as a member of the faculty at Long Island University's Palmer School of Library and Information Science.) In an e-mail sent April 29, 2010, I told her that I had been surprised by Stingone's assertion that only a preliminary inventory of my papers had been undertaken during her tenure as curator, and that their permanence was in fact provisional. "I was never given any reason by you or your successors to know or understand either of those assertions," I wrote, and went on to remind her that, "when you showed me the display of my papers in or about 1998, you indicated and I had every reason to believe that the display constituted the final collection of my papers."

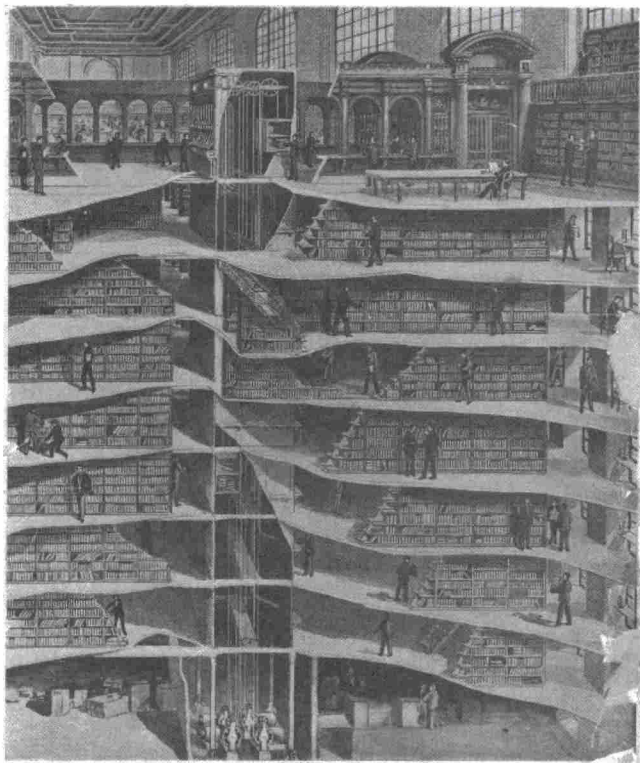
On May 31, Ms. Bowling sent me an e-mail saying that she was "at something of a loss for words. . . . As far as I am concerned, it did not, in fact, take eighteen years to arrange and describe your papers and make them accessible for research. At least those of your papers that were accessioned in 1992 were judged by me and my superiors to be worth retaining and were, in my estimation, satisfactorily processed and shelved in the Bryant Park Stack Extension, where you saw them."

Later in her e-mail, Ms. Bowling informed me that she had met Stingone for lunch several weeks previously, had told him of my shock at the deletions he had made in my collection, and had been assured by him

that he would respond to me directly. (He never did.) She also said he “confirmed that your previously processed papers had been reviewed and a substantial quantity of materials removed.”

“Here is where I pretty much run out of words,” Ms. Bowling declared, “except to say that I am dismayed. I had and continue to have the greatest admiration for your work as an investigative journalist, and the senior Library staff who participated in acquisition decisions (none of whom, unfortunately, are still at the Library) concurred.”

Sometime in early June, I received a call from a woman named Victoria Steele, Director of Collections Strategy at the Library, who said she wished to discuss what had happened to my collection. Because I was in the middle of a meeting that could not be interrupted, I excused myself for not being able to talk with her. On June 12, I informed Ms. Bowling by e-mail of Steele’s telephone call and received a reply on the same day in which she declared once again that, “I valued your papers and considered them fully processed during my tenure. . . . Having expressed my shock and dismay to him [Stingone] and to you, I must now leave it to you and the NYPL to sort out this unhappy mess, but please do keep me posted from time to time.”



© The New York Public Library

A sectioned view of The New York Public Library showing the seven tiers of stacks in which many of the Library's books are shelved. Elevators transfer books that are called for to the main reading room above.

On June 20, I wrote a letter to Ms. Steele in which I said I assumed that Stingone “has informed you of Ms. Bowling’s shock and dismay over the continued culling of my papers many years after she showed me what she described as the final collection in the Bryant Park Stack Extension in the late 1990s.” I told her that “I no longer have confidence in The New York Public Library’s stewardship of the papers I donated more than 18 years ago,” and requested that she “return all my papers to me.”

On June 25, Ms. Steele telephoned me again to say she was sorry that there had been a “misunderstand-

“I can certainly understand your reaction to having it suggested that a very substantial portion of your archives, which you gave to the Library in the early 1990s, be returned to you.”

ing.” At this point, I told her that the importance of the issues raised by Stingone in his letter to me of April 23 and in my letter to her of June 20 could not be adequately addressed over the phone, and required the professional etiquette of a written response. In a letter to Ms. Steele on June 28, I reiterated this position and asked that she respond to my previous request for the return of my donation.

A day later, I decided that there seemed to be little use in dealing with junior officials at The New York Public Library. On June 29, I wrote to Paul LeClerc, President and Chief Executive Officer of the Library, describing what had occurred to the collection of papers I had donated and enclosing copies of relevant documents—among them Stingone’s letter to me of April 23, Bowling’s e-mails to me of May 31 and June 12, and my letters to Steele of June 20 and 28. In the final paragraph of my letter to LeClerc, I said that I hoped the return of my donation could be arranged “at our mutual convenience,” and that he would read the enclosed letters and e-mails, “for they provide insight into the workings of the Library’s Manuscripts and Archives Division that may well concern scholars and authors who are considering donating their papers to the Library.”

I sent my letter and enclosures to LeClerc from my

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How Apple Saved Barnes & Noble. Probably.

Adapted from a February 2, 2011 e-mail alert to Guild members.

By last January, Amazon seemed destined to retain an overwhelming share of the e-book market. It then, by most accounts, commanded about 90 percent of the U.S. trade e-book market. Barnes & Noble had entered the game just two months before, launching the Nook in time, barely, for the critical holiday season. Few in the industry were optimistic about Barnes & Noble's e-book efforts, however.

Amazon's strategy, it seemed clear, was to leverage its formidable advantages—including its dominance of the online print book market—to all but lock up the e-book market. If it was successful, Amazon would control the equivalent of a vast online book club. Any publisher wanting to sell to the club would have to agree to Amazon's terms. This was an ugly prospect: book clubs tend to be resilient, but ultra low-margin enterprises for all involved, except the proprietor.

Amazon's most potent weapon in the e-book format and device war was the strategy it deployed so effectively in its conquest of online bookselling: using its seemingly limitless financial resources to discount books at rates no competitor could long sustain. . . . The prospects for Barnes & Noble in this environment were decidedly grim.

Amazon went all-in with the Kindle and its proprietary e-reading software. This commitment was most evident on Amazon's home page—surely the most valuable retail space on the Internet—on which it featured the Kindle nearly every day since its launch.

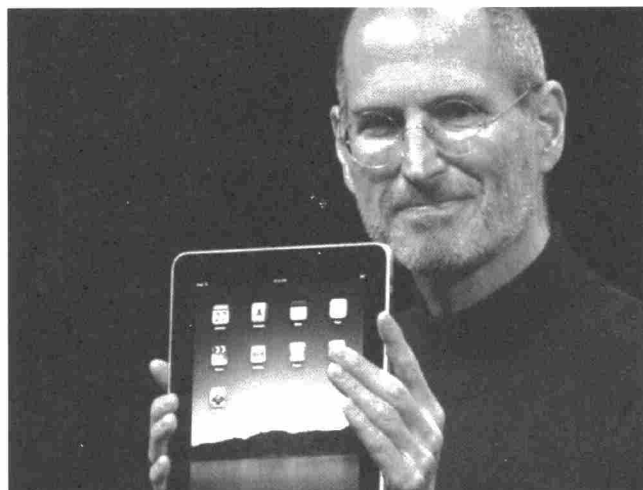


Photo by Ryan Anson/AFP

Apple CEO Steve Jobs shows off the new iPad in January 2010.

Amazon's most potent weapon in the e-book format and device war, however, was the strategy it deployed so effectively in its conquest of online bookselling: using its seemingly limitless financial resources to discount books at rates no competitor could long sustain. Amazon now pushed this tactic to a new level, routinely buying e-books at wholesale prices of \$13 and \$14 and immediately selling them at a loss, for \$9.99. This not only built customer enthusiasm for the Kindle and e-books, but helped crush online and offline competitors that were selling physical books. Amazon could win the future as it finished off the past.

The prospects for Barnes & Noble in this environment were decidedly grim. Its net income had plummeted during the recession, falling 65 percent in two years. For Amazon, however, it was as if the Great Recession hadn't happened. Its revenues had grown 65 percent and its net income increased 72 percent over the prior two years. Its market capitalization, which had climbed past \$55 billion (it stands at \$77 billion today), towered over Barnes & Noble's \$1 billion.

The e-book market, by all appearances, was for sale to the highest bidder—the retailer willing and able to sell the most digital books at a loss. Barnes & Noble was in no shape to compete against Amazon in that game.

Then the game shifted.

Enter Apple

On Wednesday, January 27, 2010, Steve Jobs announced the launch of the iPad and the iBookstore.

Apple wouldn't sell e-books under the reseller model that Amazon had been using to lock down the

market. (Under that model, the publisher sells e-books to a reseller at a discount of about 50 percent. The reseller can then sell the e-book at any price, constrained only by antitrust law and the reseller's ability to absorb losses.) Instead, Apple would sell e-books under the same "agency model" it used for iPhone apps. Under the agency model, Apple acts as the publisher's agent, selling e-books at the price established by the publisher and taking a 30 percent commission on each sale. To participate, a publisher would have to agree to a set of ceilings on e-book prices, generally \$12.99 or \$13.99 for new books. A publisher would also have to agree not to sell to others under more favorable terms.

If the agency model took hold, unfettered discounting of e-books would be out. Amazon would lose its ability to buy market share in a nascent, booming industry.

Five of the big six trade publishers (not Random House) allowed their logos to be displayed at Apple's iPad announcement. The next day, Thursday, Macmillan CEO John Sargent informed Amazon that it would be shifting to the agency model when the iPad was released. It appears that he was the first publisher to do so.

If there were any doubts about the stakes in this battle, they were erased the following day, when Amazon retaliated by removing the buy buttons from all Macmillan titles (with exceptions for textbooks and scholarly books, where Amazon faced stiff online competition). It removed the buy buttons from all editions—not just the electronic version—in an attempt to use its clout in the print book industry to enforce its preferred business model in the e-book industry.

Though the e-book market was growing fast, cutting off Macmillan and its authors from Amazon's print book market—Amazon controlled an estimated 75 percent of online trade book print sales in the U.S. at the time—was far more punitive than just severing Macmillan's ties to the e-book market. Amazon had used this buy button removal tactic before to punish publishers in the U.S. and the U.K. who fail to fall in line with Amazon's business plans, but it had never done so as boldly or comprehensively.

Amazon blinked, perhaps after consulting with antitrust counsel. After a one-week blackout, Amazon and Macmillan came to terms, and Macmillan could sell e-books through Amazon using the agency model. Four of the other big six would come to terms with Amazon on the agency model. Random House, the largest trade publisher, has chosen not to use the

agency model, for reasons we will describe in the future (hint: Stieg Larsson).

One Year Later

Barnes & Noble is, unexpectedly, the biggest beneficiary of Apple's entry into the e-book market. With five of the big six trade book publishers using the agency model, Barnes & Noble was able to enter the e-book market based largely on its customer relationships and on technological innovation, rather than on its willingness to burn through capital to subsidize book sales. Its share of the e-book market has grown rapidly over the past year, approaching 20 percent of trade sales. Its introduction of the NOOKcolor reportedly gave it a substantial lift over the holidays.

Barnes & Noble still finds itself subsidizing sales of Random House e-books—it generally matches Amazon's price on those titles—but those costs appear manageable. Barnes & Noble faces substantial challenges, as do all physical bookstores, as publishing moves to its partly digital future, but it appears to have regained its footing. Should the agency model ever collapse, however, Barnes & Noble could quickly find itself at Amazon's mercy. Amazon's growth and profitability continue to soar, and its appetite for out-discounting competitors at any cost appears undiminished.

In the meantime, Apple is not standing still. According to numerous, but conflicting, reports Apple may be revising the terms for booksellers using iPhone and iPad apps as e-readers. We will be watching these developments closely. ♦



The NOOKcolor was a holiday hit, according to Barnes & Noble.

Won't Work for Hire

BY TEDDY WAYNE

Like many fiction writers, I freelance to pay the rent. And, like most freelancers, I'm usually so pleased when I sell an article to a new magazine or newspaper that I don't read the fine print of the contract—or, if I do, I don't want to rock the boat at the start of an editorial relationship by requesting tweaks.

This lazy and passive habit recently hamstrung me when, two summers ago, I discovered that parts of an episode of a major network television show closely mirrored an article I'd written two years prior for a magazine (I'm not at liberty to disclose the precise details). The similarities included the entire concept of my article, some near-verbatim prose transposed into dialogue, and a host of replicated details.

Last summer, I discovered that parts of an episode of a major network television show closely mirrored an article I'd written two years prior for a magazine. (I'm not at liberty to disclose the precise details). The similarities were far too numerous and specific to be coincidental, including the entire concept, some near-verbatim prose transposed into dialogue, and a host of replicated details.

When I was made a contributing writer at the magazine, I had renegotiated my contract to ensure that I retained the rights to any audiovisual adaptations of my work. I assumed that these rights would protect me in this infringement case. Not so, as the magazine's lawyer informed me. These would come into play only if a television or film producer *paid* to adapt my articles. With infringement, the holder of the copyright is the legal owner and author of the work and is therefore the only one who can pursue a legal claim.

This is the crux of the odious work-for-hire contract—the standard contract that most publications attempt to foist onto their freelancers in order to maintain a permanent stranglehold on the intellectual property. The work-for-hire section typically looks something like this: "All right, title, and interest in and to any and all Work created by Writer shall belong exclusively to Publisher for the use in any manner of media, whether now known or hereafter developed, it may make or authorize, throughout the world in perpetuity, and all

Teddy Wayne's *Kapitoil* (Harper Perennial) was named one of *Booklist's* Top 10 First Novels of 2010. He is the recipient of a 2010 NEA Creative Writing Fellowship.

Work shall be considered 'work made for hire' for Publisher."



© Rory Gunderson

The magazine flatly refused to transfer the copyright to me so that I could pursue a lawsuit, even when I suggested giving them a percentage of any settlement. Instead, it agreed to pursue a lawsuit at their discretion and would give me a percentage once I had provided them with the information about the show and the article (they had no idea about it and never would; my article was buried deep in their archives and was not something anyone would uncover). The percentage? A measly 10 percent. They were inflexible, so, figuring 10 percent of something was better than 100 percent of nothing, I agreed.

For whatever reason (the remuneration was likely too paltry for a corporation's time; they had no vested interest in protecting the rights of the work on principle and didn't feel as victimized as I did), the magazine declined to pursue the suit. Only then did they offer to transfer the copyright to me for a limited time—but I would still receive just 10 percent of the settlement, even though I would now be the one doing the legal work.

As of now, my lawyer is still mulling whether the case is even worth pursuing. Had I been more aware of the work-for-hire terms at the start, and asked to renegotiate them, it would have been much simpler. When starting new freelance work at other publications since then, I've requested retention of the copyright—and, without fail, everyone has complied. Publications, and the editors who work there, tend not to have much stake in protecting the copyright, and are usually lenient about giving up audiovisual rights, assuming that nothing will materialize anyway and that the author is entitled. Reprint rights are generally out of the question, though most contracts do permit the writer to publish his or her work in an anthology. The bigger the publication, the harder it is to negotiate; *The New York Times* is notorious for its draconian freelance contract, though writers bold enough to demand the copyright have been known to receive it.

Moe Tkacik, a freelance journalist who specializes in financial reporting, has often encountered problems protecting her rights. When it comes to online writing—she's a former frequent blogger for *Gawker.com* and *Jezebel.com*—she hasn't even tried. These sites sometimes grant permission to other sites to repost her articles in full, while other sites occasionally do so without permission—but she's not aware of her employers having tracked down offenders in the past.

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CONTRACTS Q&A

BY MARK L. LEVINE

Q. My publishing contract doesn't define "net." It's used in both the royalties and subsidiary rights sections. What does it mean?

A. "Net" is one of the worst terms for authors to leave undefined in a contract, "Net"—more typically, "net proceeds" or "net receipts"—is what is left after various expenses are deducted from a larger amount, e.g., the book's list price (in the royalties section, for those royalties not based on list) or the total amount paid to your publisher by a licensee (in the subsidiary rights section). Since the amount an author will receive in such situations is a percentage of the reduced amount, it is important to specify exactly what the expenses are that may be deducted in computing net. If not specified, authors may discover that the publisher's understanding differs from theirs.

In particular, with many publishers now paying authors a royalty of 25 percent of net on e-book sales, your contract should specify that the only permissible deduction from the e-book's price is the commission to the online bookseller (typically 30 percent at the moment). Smart authors will also provide that if the commission to the online bookseller is at any time increased, then the royalty will still be computed as if the commission was only 30 percent.

Q. I have licensed both print and e-book rights to my publisher. Are they obligated to publish the book in both editions?

A. Only if your contract says so. Prudent authors will stipulate that simply publishing the book in an e-book edition (which will be far less costly for publishers) is not sufficient, and that the contract will terminate and all rights revert if no print-on-paper edition is published by a specified date. Alternatively, you could provide that no e-book edition may be published until after the print-on-paper edition is published. In either situation, if it is important to you that the print edition be in hardcover, you need to say that in your contract



Mark L. Levine is the author of *Negotiating a Book Contract: A Guide for Authors, Agents and Lawyers*, available online from www.BookContracts.com.

and also provide that publication in a print-on-demand edition does not satisfy that requirement. You may also want to specify a minimum initial print run (in the thousands) to assure that there is no attempt by a less than scrupulous publisher to technically fulfill the requirement by a nominal printing.

Q. I'm granting e-book rights, but not other electronic rights, to my publisher and I have been very specific in saying that the publisher can't make any changes to the text or illustrations. The publisher is insisting on a clause that clearly states it has the right to insert hyperlinks, which makes sense to me since I know a lot of e-book programs allow the reader to click on a word to learn its definition. Is there any reason why I shouldn't agree to the publisher's clause?

A. The publisher's request makes sense but, to protect yourself, you should include provisions covering the following:

- (i) The hyperlinks will be added by the publisher and at its expense, and no cost incurred in connection with the hyperlinks will be charged to you.
- (ii) Publisher will remove, at its expense, any links to which you at any time object.
- (iii) If any hyperlinks are to a site that result in a transaction by the user and the publisher receives revenue from that transaction, you will be entitled to a percentage of that revenue. This percentage should be specified in the contract.

Note: Traditionally, authors have received royalties only when copies of their books are sold by the publisher. But that was the pre-electronic world. With e-books, your book or portions from it—even selected pages—can be posted without charge on a site or via an "app" that has advertisements at the bottom, adjacent or as an opening screen. Authors should be certain that they get a percentage of whatever revenue publishers get from such "free" use of their book.

Since it is difficult—even for publishers—to imagine all the ways in which publishers can earn money from your book in this new world, consider including a provision like the one below, in addition to specifying percentage splits of revenues for currently foreseeable uses:

"Publisher acknowledges that Author is entitled to share in, and agrees that it will pay to Author a percentage of, revenues paid or payable to Publisher as a result of Publisher making all or

Continued on page 49

LEGAL WATCH

TV's Harsh Realities

5 Plus 7 Inc. et al v. British Broadcasting Corporation et al
U.S. District Court, Eastern District of New York

On March 18, 2008, Christopher Cardillo submitted an idea called "The American Family Cardillo" to the Travel Channel website, which had been soliciting ideas for television shows from the general public. Cardillo's idea was centered on a reality show that would, ideally, feature Cardillo and his wife and two daughters, who would start a trip in New York City and travel by Winnebago to the tip of South America. Cardillo claims an employee of Travel Channel, Peter Younge, disclosed his idea to the British Broadcasting Corporation ("BBC"), which then used the idea to produce a television show called "The Great American Road Trip."

The show was described as "a reality competition that follows seven families from various parts of the country as they compete for a \$100,000 prize." BBC then sold the idea to NBC Universal ("NBCU"), which will broadcast the show sometime in the future, without compensating Cardillo for his idea or otherwise crediting him in any manner.

In turn, Cardillo and his company, 5 Plus 7 Inc., brought suit in the U.S. District Court, Eastern District of New York, against the British Broadcasting Corporation, BBC Worldwide Productions, BBC Worldwide Americas, Inc. NBC Universal, Inc., Patrick Younge, Travel Media Inc. and Cox Communications, the parent of Travel Media, alleging 1) breach of contract against Cox and Travel Media; 2) negligence against BBC; 3) conversion and unjust enrichment against all defendants; 4) common law fraud against Travel Media and Younge; 5) wire fraud and Racketeering Influence and Corrupt Organization Act ("RICO") against Travel and Younge, and 6) copyright infringement against all defendants. All of the defendants moved to dismiss the complaint.

The district court immediately dismissed the copyright infringement claim because Cardillo never registered a copyright in his submission, which is a prerequisite to maintaining a copyright infringement action. This claim was dismissed with prejudice by the court.

The district court also dismissed Cardillo's RICO claim against Cox Communications and Patrick Younge after concluding that the complaint failed to state a claim under 18 USC §1962 (c), which required

that Cardillo allege facts that showed Cox and Younge engaged in "1) conduct; 2) of an enterprise; 3) through a pattern; 4) of racketeering activity." In dismissing Cardillo's RICO claim, the district court specifically pointed to the fact that Cardillo's complaint failed to allege that the relationship between Cox and Younge constituted a "RICO enterprise," which is defined by the Supreme Court as "a group of persons associated together for a common purpose of engaging in a course of conduct," which is proven "by evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit."

The district court further noted that Cardillo failed to provide any evidence regarding the "hierarchy, organization and activities" of the alleged RICO enterprise from which the court could conclude that Cox and Younge functioned as a unit. In fact, the district court noted that the complaint was bare of any allegations regarding the organization, membership, purpose and structure of the alleged enterprise. Moreover, the district court noted Cardillo didn't even allege that the defendants participated in the operation or management of the alleged RICO enterprise nor did they show any pattern of racketeering activity." As such, the RICO claim was dismissed.

Finally, the district court dismissed the other four claims, which were state law claims. Once the federal claims of copyright infringement and RICO status were dismissed, Cardillo failed to meet the burden of demonstrating diversity for purposes of federal jurisdiction in regard to the remaining state law claims since Cardillo and the several defendants were from New York. Moreover, after considering factors such as "judicial economy, convenience, fairness and comity," the district court refused to exercise supplemental jurisdiction over the remaining claims.

Cover Blown

Achte/Neunte Boll Kino Beteiligungs GMBH & Co. v. John Does 1-4577
U.S. District Court for the District of Columbia

Achte/Neunte Boll Kino Beteiligungs GMBH & Co. ("Achte") is the corporation that owns the copyright in the motion picture *Far Cry*. In 2010, when sev-

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CENSORSHIP WATCH

Uganda's Hanging Press. Although some observers breathed a sigh of relief over a November ruling ordering a Ugandan tabloid to stop publishing the names, photos and addresses of suspected homosexuals, and although a permanent injunction was issued against the paper in January 2011, others worry that it may not be the last the world hears from the outlaw rag regardless of the Kampala High Court's final decision. Last year, tabloid editor Giles Muhame told Reuters blogger Barry Malone that instead of complying with judicial directive, he planned to "dodge the law" and publicize the remainder of a list of 100 men and women that he claims are gay.

Muhame's now defunct weekly, called *Rolling Stone* (no relation to Jann Wenner's entertainment magazine), was an English-language publication similar in size and front-page design to papers such as the New York Post. The paper began publishing in August 2010 without obtaining a necessary business license. In October, Muhame ignored an order to shutter the paper until a license was approved by the Uganda Media Counsel: "[W]e don't care what they have to say," Muhame told Agence France-Press. On October 2, the paper featured the headline "100 Pictures of Uganda's Top Homos Leak" followed by the words "Hang Them" in a bright yellow box looming over head shots of two men, one of them David Kato, an outspoken gay rights advocate who had previously been beaten by Kampala police. That issue contained a partial list of the names, photos and hometowns of alleged homosexuals. When asked by the AFP to identify the source of his information, Muhame replied "They published their pictures on a gay networking website, so that was enough evidence for us." The website was not identified. The story continued in the November 1 "Men of Shame Part II" edition cover story, "More Homos' Faces Exposed," which identified at least 14 additional persons on *Rolling Stone's* list. Shortly thereafter, Sexual Minorities Uganda, a gay rights group that uses the acronym SMUG, sued Muhame's tabloid, which bills itself as "Uganda's Leading Investigative Political Newspaper," for invasion of privacy, seeking an injunction against publication. On November 2, Justice Vincent Kibuuka Musoke issued a temporary injunction against *Rolling Stone* that was made permanent on January 3, 2011. Sexual

Minorities Uganda is one source of numerous press reports that some of the individuals—at least four—targeted by *Rolling Stone* were physically attacked prior to the January injunction.

Homosexuality is illegal in Uganda; gays can be sentenced to 14 years in prison. Most recently, anti-gay sentiment found strong expression in last year's attempts to pass a national law, spearheaded by MP David Bahati, which would allow some individuals who engage in homosexual acts to be put to death. That bill, the subject of media attention in the United States because of alleged "silent" support by prominent Christian evangelical leaders such as Rick Warren, was tabled after an international uproar, but not scrapped. *The New York Times* reports that the bill could be passed after Uganda's February election.

In an interview with CNN's David McKenzie, posted to YouTube on October 29, Muhame confirmed that the "Hang Them" invective wasn't merely sensationalistic. It was a deadly serious call to action. When McKenzie asked whether he really meant for homosexuals to be killed, Muhame said, "[T]he evils associated with homosexuality are underemphasized. We thought by publishing that story, the police would investigate them, prosecute them and hang them."

On January 26, David Kato was murdered by an unknown attacker. He was bludgeoned to death with a hammer inside his home. He died en route to the hospital. A spokesperson for the Kampala police quoted by *The New York Times* downplayed the possibility that the murder was a hate crime, saying, "It looks like theft." The official pronouncement of robbery as the motive for Kato's death strains the credulity of Ugandan activists. Val Kalende, a SMUG leader, told *The New York Times*, "The Ugandan government and the so-called U.S. evangelicals must take responsibility for David's blood." Muhame believes his hands are clean. "There is no need for anxiety or hype. [W]e should not overblow the death of one," he told *The New York Times*. And he told the Guardian, "I have no regrets about the story. We were just exposing people who were doing wrong." David Kato was 47 years old.

—Anita Fore
Director of Legal services

SYMPOSIUM

Book Publishing in Transition

The freighted subjects of e-book rights and royalties, the future of print and of brick and mortar bookstores, the cost of producing digital vs. print and a long list of related sticky wickets issues were taken up in the course of an early morning discussion cosponsored by *Publishers Weekly* and the Book Industry Study Group at Random House's Cafe Auditorium September 28. James Milliot, co-editorial director of *PW* served as moderator. Participants included Paul Aiken, Executive Director of the Authors Guild; Neil de Young, Executive Director of Digital Media at Hachette; Lloyd Jassin, a publishing and entertainment lawyer and the coauthor of *The Copyright Permission & Libel Handbook*, and Scott Waxman, a onetime editor at HarperCollins, currently head of Waxman Literary Agency. Thanks to *PW* and all participants for permission to run the edited transcript.

JAMES MILLIOT: Thank you all for coming. We have a great panel to talk about e-book rights and where we are today. Each of us will have about five minutes to talk about how we see the e-book rights situation and how e-books can best be exploited. I've got a few questions of my own to stimulate the debate and then we'll open it up to the audience. Neil?

NEIL DE YOUNG: I think today's panel discussion is key to the author/agent/publisher relationship. We at Hachette firmly believe that although our industry is evolving, our core mission as publishers essentially remains the same. And that is to distribute ideas as widely and safely as possible. As venture capitalists, we pride ourselves on taking calculated financial risks, and fostering new voices.

There can be no doubt that our industry is at an inflection point. Mobile devices with screens that are good for reading are proliferating at an exponential rate. The recent Nielsen smartphone study started with a statement that I think most of us probably took for granted. "Most Americans can't imagine leaving their homes without their mobile phones." Recent AAP [Association of American Publishers] numbers indicate that mobile book numbers are up more than 190 percent since 2009; shipments of e-ink devices are expected to exceed 10 million units in 2010; I've counted at least five different tablets rumored to be on

the market by the end of the year—and I'm sure a couple will be announced this morning that I haven't had a chance to read about. So opportunities seem to be all around us. As venture capitalists, however, it is our responsibility to measure those opportunities against costs and risks. To put it in perspective, a significant percentage of what Hachette publishes doesn't earn a profit. So with so few titles earning a profit, it is our responsibility to make sure we are generating revenue wherever we can, so we can continue to make investments in new and established authors.

While digital publishing does provide us with certain cost savings, there's a popular perception that there is a reduction in overall capital costs, which is simply incorrect. Traditional paper print and binding, on average, accounts for only 11 percent of a P&L. The rest is allocated to author advances, marketing, staff and overhead. We have, however, replaced paper print and binding with new digital costs. As an example, Hachette pays and provides, as a service for its authors, piracy protection. We have conversion costs, which range from affordable to expensive. We have digital storage and warehouse costs that go up every year as we develop more and more digital content. We've developed systems and models to make sure that we're tracking our e-book sales accurately, and we've even conducted a digital audit of a major ac-

count. All of this while increasing staff to manage the growing business.

So what about the e-book market? Digital sales are no doubt growing year after year. But 90 percent of Americans still prefer to read the printed book, which means we must continue to support that business. E-books do not represent any cost savings for Hachette. We are supporting dual (physical and digital) infrastructures for one title and may have to do that for the foreseeable future. Subsidizing implies Hachette is using one business to pay for another. Hachette is investing in a digital infrastructure to support that market

“Digital sales are no doubt growing year after year. But 90 percent of Americans still prefer to read the printed book, which means we must continue to support that business. E-books do not represent any cost savings for Hachette.”

—Neil de Young, Executive Director of Digital Media at Hachette

while making continued investments in the infrastructure that supports printed product.

In essence, digital publishing has only added cost lines, not subtracted them. Meanwhile, the new mobile devices we talked about earlier are multiplying the number of entertainment options available to consumers, increasing the noise level that books have to compete with, which in turn increases the complexity of our core mission.

So the question before us is how to best manage this inflection point and transition our resources, human and industrial, through this period. We're hard at work at developing content for a multitude of platforms. We believe that authors, agents and publishers want the same things, which is essentially to distribute content as widely as we can, as safely as we can, and make a profit along the way.

MILLIOT: Thanks very much. Paul?

PAUL AIKEN: Things are changing incredibly rapidly. We had that hearing on the Google settlement back in

February. Back in February, you could not buy an iPad. Yet I see there are two people here reading off iPads for their notes for this meeting, and I see more in the audience as I look around. We're in a state of flux, and in this era, tipping points hit before you know it.

So how close we are to a major shift to digital, how big that shift is going to be, whether digital is going to be 20 percent, 30 percent, 50 percent of the market a few years from now, no one can really say. It certainly has the attention of the industry, attention that wasn't there say, five, six or seven years ago, when the electronic royalty rate structures were negotiated. Back then, agents and authors didn't care that much what the royalties were for e-books because there was no real market for e-books. It was always in the add-ons. It was negotiated and there was a little bit of fighting over it but nothing that serious and we wound up with a royalty rate that was consolidated at around 25 percent of net proceeds.

Now this goes against all industry traditions. Industry tradition says: you basically split the proceeds, that a 50 percent of retail hardcover royalty rate is essentially a splitting of the proceeds; that's how it was arrived at years ago. That's why when you look at the sub-rights clauses you see a 50/50 split. Pretty much down the line, unless they're more favorable than that for the author. And basically, it works well. No matter how the publisher exploits the work, there's the sense that 'We're in it together, we get roughly half the returns.'

What's happened with this 25 percent of net royalty rate is, suddenly there is a disequilibrium. Whether you're talking about the agency model or the traditional model that Amazon prefers, publishers generally do better on e-book sales than they do on hardcover sales. Authors *always* do worse on e-book sales than they do on hardcover sales. This gives the publisher an incentive, whether it acts on it or not, to favor e-books over print books.

Depending on how you view the future, whether you're a pessimist, and you think that we're all heading for a cliff, or you think that this is all going to work out fine, it tends to encourage the publisher to put its foot on the accelerator toward that future, and bring it about that much sooner, because it's very profitable right now for publishers to favor e-books, slightly, over print books.

That's largely because the book royalty rate just isn't fair. For older books, as I'm sure many of you are aware, the deal is different than for new books. Sometimes there's a sliding scale, but in many cases, there isn't. You start at 40 or 50 percent of net for the older contracts. I can't understand the rationale of why it should be different for new books.

I don't think it will last. I don't think, in the long run, authors with clout, agents with power, are going to put up with being a junior partner on e-books instead of being a full partner like they are for print books.

Right now, what's happening is that authors realize this, agents realize this, and then authors and agents with the power say, "What are you doing giving me 25 percent of net?" And publishers are saying, "Take some more advance. I don't want to change. If I change the deal for you. . . ." Essentially, what's going on is publishers are paying to make sure they don't have to shift the royalty rate upwards, because if they do, they have a whole bunch of contracts—they have a whole legacy—that they have to shift up the royalty rate for.

In the short run it's a lot cheaper for the publisher to pay off authors with clout and give them bigger advances than it is to start shifting up the e-book royalty rate. Because once they do that, there's a whole cascade of contracts for which they have to shift e-book

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***—Paul Aiken, Executive Director,
The Authors Guild***

royalty rates and so forth. So, for this quarter, it makes a lot of sense to pay an extra advance to that author with clout in order to avoid resetting your company's royalty rate.

There's a lot of talk about digital strategy in the publishing industry and you know, that's smart, that's important, but in some ways, digital strategy just means: digitize as many books as possible, get them on the cheap by not paying high royalties, and make them available because Amazon and Barnes & Noble and Apple will get the books out there and they're sell-

ing like crazy. What publishers really, really need right now is a print strategy—some way to figure out, if we do hit an inflection point, how we keep as many bookstores as possible out there. Publishers, the publishing industry, authors, we all need our showrooms around the country. We need lots and lots of them, and if that diminishes, if it gets to the point where we go from having thousands of bookstores to having hundreds of bookstores, then the whole industry changes quite rapidly.

The advantage that big traditional publishers have is being able to get lots of physical books to lots of physical places all at once. If that disappears, we've got a radically different industry, and publishers probably won't have the need for large buildings like this. But you know, I'm a glass half full kind of guy and I think there'll be enough bookstores, but I think that everyone has to think a lot about how we make sure that as many physical outlets as possible are there 10 years from now, because that's the real battle of the industry.

MILLIOT: Great. Thanks very much. Lloyd?

LLOYD JASSIN: If Paul is a glass half full kind of guy, then you'll slit your wrists after I'm done speaking. I'm Lloyd Jassin and I want to thank *Publishers Weekly* and the Book Industry Study Group for inviting all of us here. Because I'm an attorney I evoke a lot of hostility, so let me lay a little foundation. I also consider myself a part of this industry. I started out in book publishing twenty-five years ago, originally at St. Martin's Press, and then Simon & Schuster. I was a director of publicity for a division of S&S that published long-shelf-life branded nonfiction, which was a good idea then and is an even better idea now for a variety of reasons dealing with electronic publishing. So I'm an exile from publishing. I then went to law school and worked in television and syndication distribution, doing a lot of trademark licensing. I'm also an author. I currently have a boutique law firm, and I represent franchise authors, midlist authors, some literary agencies, midsize book publishers, and the like. So I don't see things just through the eyes of an attorney/advocate, or a publisher/author. I think I see things a little differently. Plus I have a lot of friends in the music business and we all know what's happened to them.

So if somebody asked me about the future of book publishing, which I think is the subtext of this morning's discussion, I'd say, to paraphrase one of my music business friends, "the future of publishing is bright, but the future of the Big Six publishing industry is cloudy." I think publishing has always been in disaster mode, and it will reassess and reform and maybe get smaller, but it'll adjust to the changes. So big pub-

lishing is in peril; you don't need me to tell you that. But I don't think it's just the recession, I don't think it's just disintermediation. It's the fact that, in large part, older contracts didn't contemplate the digital future. That is an error that you can lay at the feet of the publishers, because they drafted those contracts, and future technology clauses have existed for at least a hundred years. Mark Twain's contract, written in his handwriting in Year TK, talks about future technologies. So it wasn't that they didn't know about future technologies. It's just that the lawyers were asleep at the wheel, in my opinion.

So respectfully, and it's very respectful because I'm here at Random House, but I disagree with Random House CEO Markus Dohle's statement that the vast majority of backlist contracts granted Random House e-book rights. I believe he wasn't speaking just for Random House but for the industry. Those contracts need to be reviewed on a case-by-case basis. Some contracts granted them e-book rights; a lot of them certainly didn't. But I think whether they did or didn't may be actually moot, and what I mean by that is, even if they did grant Random House and Simon & Schuster and their brethren electronic book rights, they have them only for the short term, not the long term. The Copyright Act giveth and it taketh away, and already, and with greater velocity in two years, authors will be able to exercise their statutory termination rights. These are rights found in the Copyright Act that allow authors who didn't know their worth when they negotiated their business and republishing contracts 35, 56, 75 years ago, the right to go back and negotiate a better deal. Is it fair to publishers? It's really not a question of fairness; it's the law. And wherever you come out on this issue, the copyright termination provisions of the Copyright Act are going to allow authors to reboot their pre-Internet contracts, and clear up any of the ambiguities regarding e-books in the author's favor. So, if the question is, do publishers control e-book rights to their legacy titles, arguably they do, but not for much longer.

What happens when the right to reprint classic titles is threatened is the subject of another evening, but what it comes down to is, agents and publishers disagree on two key issues. Who controls e-book rights? I think the question's been answered, whether it's the Rosetta books decision, which Random House lost, or the reversion of rights in favor of heritage or legacy authors. The historical irony is that 301 years ago, the precursor to our Copyright Act, England's Statute of Anne, gave authors the exclusive right to control their writings and other intellectual property and authors in turn gave publishers an exclusive monopoly over their works.

The reason authors needed publishers was that publishers controlled the printing presses, and that's what came between the people and the writers of the time. Now that the printing press is less important and authors can control their own printing presses, I think we're going to see a dislocation, a disruption, in the way business has been done for a lot of years.

I did the math and 2013, which is the first date rights can be recaptured, is two years, 95 days, and approximately 16 hours from now. That's when the first copyright termination or "contract bumping recapture" time bomb goes off. It will threaten publishing's backlist and all of the books on the backlist that begin with the words "Vintage," "Classic," "Heritage"; titles published 35, 56 and 75 years ago are at risk. When a publisher's backlist has to be renegotiated, it has profound implications for the industry, and makes authors and publishers reassess their relationship.

I think what will happen is old contracts will be renegotiated; publishers will compromise rather than

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—Lloyd Jassin, Publishing lawyer and coauthor of The Copyright Permission & Libel Handbook

lose authors. And it's generally a good idea to leave the dance with the party you came to the dance with, so while authors have the ability to put a knife to the throat of publishers—it's the Copyright Act that allows them to do that—I think there'll be accommodations. Andrew Wylie, by settling for 40 percent on backlist titles, makes me question his negotiation skill. It could be that Random House had pictures of him in a compromising position in Frankfurt. Perhaps, he didn't consult his attorney before accepting Random House's offer. Why? In two, three, four years, it's going to be a 50 percent—or better—deal that authors and agents will be striking. Maybe Mr. Wylie got large advances in exchange, and it's a short-term license, so

there are lots of ways that you can work things out. Forty percent wouldn't look so bad to me if I got several million dollars up front. Money today versus money tomorrow.

MILLIOT: Thanks very much. Scott?

SCOTT WAXMAN: I've been in the publishing industry my entire career, starting off at HarperCollins in 1990. I've been an agent since 1993, so my agency is all post heritage, legacy authors. Who owns the rights and how all of that is going to shake out is certainly of interest to me, but I think a lot of people in this room, especially some of the younger agents and the younger agencies and authors are wondering, what does it mean now for some of the newer contracts and which rights should they be trying to exploit, which rights should automatically be given over to the publishers.

These are the questions we've been asking ourselves, and why I started this imprint called Diversion Books, which has really been an opportunity to explore exploiting rights and trying to make books ourselves. Can we edit our own books? Can we design our own covers? Can we produce these books in different formats? This is really in response to our authors, for books that either we do not choose to sell to a publisher or cannot sell to a publisher.

It started out as an effort to understand what the choices were for an author and how realistic it was for them to do this with our help, to make a living doing this. What were the cost benefits, and was there really any revenue? A lot of those questions are still being answered. It's been an interesting process, to say the least, and it's also been very interesting to talk to other agents about how they can help their authors do this as well.

So for us, the idea of e-rights, and who controls what, is pragmatic more than it is legal. I'm not a lawyer, although I'm familiar with all the conversations of the settlement case and copyright law. To me it's about who is going to do the best job, who's going to cooperate, who wants to work together, what kind of book are we talking about. If it's something that's already under contract, or it's been successful in the past, say, a backlist title within the last 10 years but nothing's being done about an e-book, you obviously have to ask the publisher: "Can you do something with it beyond just the text?" "Are you going to do some kind of enhanced version?"

Enhanced version rights have traditionally been held by the author and that's starting to change. So that's a whole other conversation that needs to happen. From our point of view, it's about what benefits the author, what makes sense for the different parties.

This is not a land grab for agents. I don't think we're looking at it like that, especially for start-ups that are trying to exploit the backlist. It's just not what we're trying to do.

I think everybody realizes those big stores are not going to be there in 10 years. I think the little stores will be there. I think you'll go shopping after the movies and browse, but I don't think the kind of volume of physical books we see now will be in the stores

"For us, the idea of e-rights, and who controls what, is pragmatic more than it is legal. . . . It's about who is going to do the best job."

**—Scott Waxman,
Waxman Literary Agency**

in those years. So we're going to have to figure out how to sell books electronically, which we haven't really done yet in terms of merchandising.

I'm happy to have a conversation about the legal side of all this, but to me it's about what's the best way to make these books, sell these books, and who's going to do it.

MILLIOT: Thanks very much. Before I ask any questions, does anybody want to respond to anything that was said up here?

DE YOUNG: As the lone publisher at the table, and I can only speak for Hachette, what I'm hearing from my fellow panelists is a lot of concern about the future. I can understand where that comes from, but I can't reiterate enough that I think, actually, that our future is very bright. As I mentioned earlier, there are more entertainment options available to consumers than ever before. And that is a challenge. At the same time, it's a tremendous opportunity. It also means that we are bringing in new readers who maybe didn't buy books regularly before. So we have a new market to reach, we have a new consumer to engage. And quite honestly I think our biggest challenge is getting people to read. Yes, definitely, we need print bookstores, we need visibility, but more than anything else, we need people reading. And I think that this is a real opportunity for publishers to reach new consumers. I think

that is something that we need to keep in mind as we talk about all of this.

MILLIOT: Do you have any feedback at all that you are in fact bringing in new readers from the digital options?

DE YOUNG: It's really tough right now because the market is so nascent and the data is very young. We have anecdotal data, and everyone in the audience has probably seen some of it, that show that there is some evidence that consumers who are buying digital books are buying more, and they're reading more than they ever did before. Maybe that's because they can now get books in 60 seconds. Maybe there's a convenience factor in there. I don't know all the variables yet because the market is so young and the data is still evolving, but I think that there's a kernel of truth there, and that's exciting for us.

MILLIOT: Paul?

AIKEN: I want to agree with some of that, partly that there's huge opportunity suddenly. Probably 90 percent of the people in this room have a device on them right now on which they could download an e-book in the next minute if they wanted to. And it's working. People are actually doing that. What I think no one has figured out yet, is how to introduce new authors, new types of books into that digital marketplace. Right now the physical bookstore is the best way to introduce new authors. You walk into a well-run bookstore, you glance at a table with 50 books, and in about a minute, you'll know, those three books interest me, the other ones don't. And you'll be kind of right.

The digital experience is not nearly that good. You go online and you see a page full of covers and you can browse around a little, and the bookseller might present you with books other people like you have liked, but there's an element of serendipity critical to the whole experience that's been lost. Also, if you're in a physical bookstore surrounded by books with cash registers nearby, then you're in this mode of buying books. You see something you like—the leap to actually buying the book is a very small one.

So while there's clearly a growing demand for e-books, it's not clear that e-book demand can translate into a truly diverse marketplace in the same way as the physical bookstore, which serves as the wetlands and gives us diversity in the publishing industry, which then spreads out to all other areas. Even now, with only 1,100, 1,200 surviving independent bookstores, so many titles are supported for the first couple of months there, before they break through and then get picked up by the big box stores. It's a crucial breeding ground for us all, authors and publishers, right now,

and unless we find some way to replicate that online—and really, despite Facebook, Twitter, social media, we haven't figured it out yet—it will really radically change the industry.

I also think, as far as people's reading is concerned—my twins are now in middle school and I have a seven-year-old as well—kids read way more than when I was a kid. It's like a competition to see who gets through how many Magic Treehouse and Harry Potter and Hunger Games and Diary of a Wimpy Kid books. These things sell. And they've gotta have the books. When a new Diary of a Wimpy Kid

“While there's clearly a growing demand for e-books, it's not clear that e-book demand can translate into a truly diverse marketplace in the same way as the physical bookstore, which serves as the wetlands and gives us diversity in the publishing industry.”

—Paul Aiken

comes out, I can tell you that down at P.S. 41 in the West Village, they are going to sell 350 copies of that book. I think the demand is there. We just have to make sure the environment is there to support business models that will continue to produce a wide range of books that readers want to read every which way they can.

DE YOUNG: I absolutely agree with that. I think that is the value of what a publisher brings to the table. What we do is make sure the content we represent is distributed wherever our reader is. Whether that is figuring out how to work with education systems to get them digital content, whether it's merchandising the content at the dotcom store, whether it's working with library systems. What we do is make sure the content we represent reaches everywhere. And that's the value, that's one of the values that the publisher brings.

JASSIN: That's the value that's most at risk perhaps, and most opposite to the Internet, so it's interesting that you're in new media—not so new any longer—which embraces the fact that distribution is effortless.

I think the problem is, what do publishers do today, when you can sell hard or e-books more efficiently via Amazon or Google. Amazon merchandises books, Google allows you to discover them. What happens when stores are less important? How do you redefine the role of a publisher? Publishers are fabulous at acquiring, editing and, I think, hooking into communities, which is essential in the digital world as well as the physical world, but distribution has always been the weakest link in publishing, having more in common with Yankee peddlers. So what is the role of the publisher today? Is it distribution? Amazon does that better than traditional publishers, and Google has the potential to do it better too.

DE YOUNG: Distribution is really a supply chain. Amazon is one way to reach the end consumer. Barnes & Noble, Apple, e-books.com are some others. There's also kids, school systems and library markets. What we do is make sure that the books we represent reach all of those places and markets. That is difficult and quite frankly, you know, isn't free. There is cost involved with that. I'm not saying e-book distribution has the exact same cost as a physical warehouse, trucks or gas. It doesn't, obviously, but we do replace many of those costs with new ones. It's not so much that the publisher has to redefine our role, as that we need to adapt what we do to an evolving market.

WAXMAN: I would add that the things that you say that a publisher does are not easy to do. In other words, the idea of editing and designing and making sure that you've got the right book for the right audience and it's going to be appealing, and it's going to sell, is a huge undertaking for one book. And obviously a much, much bigger undertaking for many, many, many books a year. So, can a small company do five, ten e-books a year with a limited budget? They'll be successful if they pick the right books, yes. But I still think that the vast majority of established authors want a company that covers all the bases comfortably, where things don't fall through the cracks (of course things always fall through the cracks). That role is a huge role; it's not just distribution to me. You can define publisher in a very simple way but the question is, who is going to do it well? It comes down to who can actually execute.

JASSIN: The point that I'm making is Google can hire Random House's 350 editors, then acquire Ingram at incremental cost or expense and it has all the bases covered. I'm saying that what publishers once had was a monopoly on the distribution of books. I value publishers. I was one for ten years; I know what they do. I'm just saying the game has changed, and physical is

not as important as it once was. But I don't disagree with you. What editors do is critical.

AIKEN: As you might guess, I've been getting this question for years from members: What do we need the publishers for? And really, I'm the first to say, You still need the publisher.

You need the publishers for several reasons. First, for the imprimatur of quality. This is a book that someone you've heard of, a company you've heard of, has invested money in, and it's not just some self-published thing that's out there, it's not part of the undifferentiated mass of works on the Internet. Someone's put real capital into this, decided that this is something readers might value. Second, for the investment. Authors genuinely need advances to take the time to finish the book they want to write. If that money isn't coming from publishers, then we're left with what? NEA grants and foundations and the kindness of strangers and there won't be the sort of rich diverse market of books that we have right now. Third, you need publishers for distribution. Fourth, the stamp of recognition that comes with being with that publisher gives you a shot at being reviewed by the major book reviews, which remain critical, and alerts bookstores,

***"Can a small [publisher] do five,
ten e-books a year with a limited budget?
If they pick the right books, yes. But I
think the vast majority of
established authors want a company
that covers all the bases."***

—Scott Waxman

which, as I've said, are critical. They make decisions based on the lists of books publishers present them. They know what to expect when they see a FSG book, they have some idea of what Doubleday means. That all matters.

So publishers still play a vital role in getting your book out there and giving it the best chance to be read by as many people as possible. But the key, I think, to their continuing to play that vital role is that physical distribution chain. It's not a given that companies that are good at physical distribution will be able to make

the transformation and be really good at digital distribution as well. The name of the game for book publishers right now is still physical books, and if we're lucky and things work out right, ten years from now that will still be important, and if that's still important, this business will be fine. There'll be a diverse range of books available, and everyone can breathe a sigh of relief, because we'll have dodged the digital bullet.

JASSIN: I think you put your finger on it. A lot of it has to do with trusted sources. And publishers, in some instances, are trusted sources. What has been underplayed for a tremendous amount of time has been the branding value of a publisher. Branding comes into play with long-shelf-life nonfiction. It's a smart way to publish—the next Random House dictionary product you buy will be as good as the last one, whether it's print or an e-book.

I think what becomes a more valuable asset to publishers are their editors, as community leaders who receive information in advance of the rest of us and disseminate it through writers they anoint. It's always been about community. When I was in publicity at St. Martin's Press, they'd give me a book on organic gardening called *Incredible Heap*. My job was to find these obscure publications to send a press release to. It was a lot about selling a few things to a few people who cared. Finding discrete communities. St. Martin's was great at publishing (and selling) five thousand copies of a genre mystery title, finding the audience through a review in *Publishers Weekly* and *Library Journal*. On the strength of those two reviews you'd sell 2,500 copies institutionally, and the rest in ones and twos. So, as much as I disagree with you, I agree with you. It's not black and it's not white. I think bookstore distribution is important. But publishers can't continue to fulfill all of those functions if they don't adapt.

WAXMAN: Arguing the other side of it, in terms of publicity, I guess the tricky part now for a publisher is when an author has the ability to snap their fingers and announce to the world that their new book is out—and immediately sell 100,000 copies. We have a book out this morning—it's the author's second book, he's a best-selling author, and I don't think he's spoken to his publicist in two weeks. He doesn't want to speak to his publicist because that's a little bit the way he is; he doesn't really need to speak to his publicist. This is an unusual case, because he has a tremendous online following. He has a plan to roll this thing out completely on his own. You guys all know other examples of this. I got the e-mail blast this morning. It's skyrocketing now on Amazon. It's pretty much clear that his next book will not be with a big house. Again it's not typical, he's a different animal altogether, but he's

made it very clear he doesn't want to get 50 percent hardcover royalty on his next book. He wants to get a big royalty and run a different model.

So there are plenty of risks that have to be dealt with and adapted to. It'll happen, because there are enough smart people in all these houses to make it work. Whether or not it'll be the same formula as now is a question. It probably won't be. These companies will probably not be as big or as many in a few years,

“Branding comes into play with long-shelf-life nonfiction. It's a smart way to publish—the next Random House dictionary you buy will be as good as the last one, whether it's print or an e-book.”

—Lloyd Jassin

but to me, they have to be there. And we all want them to be there. But there's a lot to learn from these cases; the disintermediation happens at different points in the process.

DE YOUNG: I think you're absolutely right. There will be special cases where there is a particular author or brand that may have grown so big they are able to do things on their own. But I think you are right that publishers do need to think about how we're organized, how we're adapting what we do in print to digital, how we can do both really well. I think that [at Hachette] we are doing both really well. We have publicists who are looking at the blogosphere, making sure that we are reaching that obscure horticultural magazine that was printed 15 years ago and that has since migrated to the Web. Those are the necessary levels of expertise and dedication that Hachette brings to the table, because you're right, we're financially invested in the title. We made a cash investment and I wish that we sold more, and we certainly try harder than anyone, considering we are not GE, with unlimited resources. I think you would miss that level of dedication if all the authors went to Google. Because you know what? Google doesn't care about the book. Google cares about the ad results around it, and search relevancy.

JASSIN: I think publishers have a greater burden today to prove their worth, but authors, and editors, and publishers, make better books when they work together. In the case of backlist, those are rare examples of authors or estates that have something that has an ascertainable value; they are branded, and perhaps have less of a need to work through a publisher partner, if they can work through a distributor. In terms of the front list, I like the ecosystem the way it is. Is it going to change? Yes. It'll get over this flu or this cold, whatever you call it, and it'll be stronger but different. So I'm not surprised either. We just fight over money. That's what it comes down to.

AIKEN: But that fight over money is important. To go back to the e-book royalty rate, publishers really shouldn't underestimate the amount of bitterness it causes. Authors know, agents know, it's not a fair deal. Anyone can do the numbers, anyone can see that publishers do better on e-books, and authors do worse on e-books, than they do on hardcovers. That ticks people off, and that's when the conversation about disintermediation starts. We've got to get on the same page, so our interests are truly aligned, and then we can move forward. But until that's fixed, people are going to still talk about disintermediation. Authors will talk about it, even though I think for the long-term health of the industry, it's not a good idea. There are authors, clearly, who can go it alone. There have been for years. It's just that the barrier to going it alone has dropped, because of the new technology. But most of those authors who can go it alone got to that point because of the existing ecosystem. And how new authors would get to that point really isn't clear.

Again, things may change; things happen online very quickly. Maybe there'll be some new way of discovering new authors that will emerge online. But how an author would get to that point without the structure we currently have, I don't know. So there is a strong sense, I think, among lots of people, that we're all in this together, but also there's this underlying bitterness, which is pushing a lot of authors to look strongly at ways to go it alone.

DE YOUNG: I can understand where you're coming from on the whole royalty rate issue. We actually think that the rates we have right now are pretty reasonable considering the costs that are associated with digital publishing, which most likely are only going to go up and not down. And over the life of a book, the rates are actually more favorable than they are in print. So I think it's entirely possible that it could go the other way. There may be a time when we think the rates are too high.

MILLIOT: But Neil, you've said, and I've heard pub-

lishers say this repeatedly, it certainly sounds like it's where the fundamental difference lies. What are those digital costs? You talk about the manufacturing as 11 percent. Is digital X percent of something?

DE YOUNG: Well it depends. It's tough to say that digital is X percentage of something because the profitability of a book is across all formats, and as I mentioned earlier, a significant amount of what we publish doesn't earn a profit. So in a vacuum, I think you can make any case you want to. But publishing doesn't work in a vacuum; it works across thousands of titles. So whether it's a hardcover, paperback, mass market, or e-book—the costs that are associated with a book are shared across all the different formats.

We are taking on new things that we never did before. As an example, we've hired a third party to help us monitor and track e-book sales. That's a big concern, especially at Hachette. We're wondering, as the business becomes more and more a percentage of the overall business, how do you know that what retailers report to you is accurate? In a physical space, they transfer a physical book, they pay for it up front, and everyone knows exactly what happened. In the digital world, we essentially send a file and the retailer sends a report back saying, "Hey, we sold 10 copies last month." And we say, "Okay, we trust you." Quite honestly that's not a great position to be in. We have some specific protocols that we're addressing up front now, and we're going to have some things in the future that we think are going to take it even further. Royalty-Share is the company we've hired to help us with three distinct strategic issues. The first is just gathering all the different sales reports from different resellers to normalize everything—let's look at Amazon's report, let's look at Apple's report, etc. All of that has to get normalized and entered into our systems.

The second is price verification. We want to make sure that all of our resellers are actually pricing at the price points we set up. They're going to help us monitor that. The third piece, which is a "we can't get there fast enough" kind of future state, is that they're developing a sales transaction API [Application Programming Interface] log that will monitor individual sales transactions at the point of purchase. For all intents and purposes, it will be a live 24/7 audit. That's an example of a cost we take on, that's a capital cost that goes across the entire program. It's hard to say it's X percentage because we don't operate [our P&L's] in a vacuum.

WAXMAN: Can I respond to that? To say that it's not a profitable business suggests that you're using this money to pay for a lost cause. I think that you can never decide on a standard rate to make up for a busi-

ness that's not working. As far as these other issues of tracking sales, my understanding from what we're doing with our books is track sales mostly through websites, and I can go online to any retailer of e-books and find out exactly how many copies we've sold. These strike me as start-up costs. They strike me as things you guys have to have down, because it's new, and that are going to diminish, not increase, over time.

If there are consultants involved, if there are experts you guys have brought in to get things rolling, to make sure you have your systems under control, those are first, second, third-year costs. So then it comes back to the question of what are the other costs, and my argument for you then is, what is the original cost? Which is the work, which the time spent? The amount of money that you spend for an editor on a freelance basis or a designer or someone to actually format everything is real money, it's significant, it's time-consuming. I don't know exactly what the numbers are large scale for a big house, but to me the big costs have been what have always been the big costs, which are people's time, making the books themselves.

DE YOUNG: Well, you're right, you can look at the website, and they'll tell you what they're selling. But you don't really know. You know what they're telling you. So you have to trust that. As far as the loss lead-in, actually, I think it's the opposite. We're not taking losses, we're actually taking on the books that we expect to earn a profit on so we can publish books that may or may not. But you're right, there are some costs that we're going to have, some up-front costs that we may be able to amortize quickly. I think that's true and that's fair. I think other costs will continue year after year.

AIKEN: I've got to get in here a little bit. First, I agree with Neil, there's a responsibility to audit the distributors, make sure that the sales are being accurately reported, it's a critical function in the digital world. But when you look at costs, you can look at them in a few different buckets. One is the common cost, of getting the manuscript all ready for publication. That's there for digital and for print it's been there forever. Then there are the costs that are unique to print: getting it all set and ready to print, the unit costs of producing the physical books, and getting them to the bookstore, plus the associated costs of handling returns.

On the electronic side, the setup costs are quite modest, and then the unit costs comes down to, basically, keeping the server plugged in and paying the DRM fee on a per-unit basis.

MILLIOT: I'll jump in here Paul. He's talking about managing Hachette over all formats, and it sounds like you're kind of cutting out digital on its own.

AIKEN: Yes, because it's easy to say that the costs are really hard to describe if you mush them all together. But if you break it all down into the actual "what they're doing," "what they were doing before," "what they have to do now, in addition to what they were doing before," "what the new costs are," and "what the

*"[Neil] is talking about managing
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*James Milliot, Co-editorial director of
Publishers Weekly*

unit costs are for delivering that e-book". . . . I know it's the company line and I have heard this company line from every publisher for the last fifteen years. There is no comparison. A server doesn't need a 401k plan or major medical. It's a different game.

DE YOUNG: It does though, because a server needs someone to manage it, and that person gets a 401k plan.

AIKEN: You're not going to tell me the labor costs are anywhere near the same as at the warehouse and everything that's involved with the physical infrastructure for a book.

DE YOUNG: Like I said, you're absolutely right, a digital warehouse is not as costly to run as a physical warehouse.

JASSIN: What's left?

AIKEN: What's the return? What are the costs of returns and overprints? There is none. I know everyone's drunk the Kool-Aid who is with the Big Six but it doesn't make sense.

DE YOUNG: You're also assuming, though, that tomorrow, 90 percent of the business is digital.

AIKEN: I made no such assumption.

DE YOUNG: The physical warehouse still hasn't gone away. So its costs haven't gone away. So now I'm supporting essentially two warehouses, not one.

AIKEN: Look, if you're competing against publishers that pay 50 and 60 percent royalties, you can't start saying, "Oh, but I have all these other costs as well."

DE YOUNG: Of course I can. Let me just say that, I don't know who is paying 60 percent royalties. And I'm guessing the ones that are don't have the same infrastructure in place as Hachette does.

AIKEN: Right.

JASSIN: Let me suggest something here. It's like marriage counseling. If the royalty rate initially was 25 percent, and after the advance was recouped, it rose to 50 percent, would that work for both of you? Starts at 25 percent, and after the publishers recoup the advance, the royalty increases. You've amortized all your costs.

DE YOUNG: I think it's a fair argument.

JASSIN: Now we have to deal with visitation rights.

DE YOUNG: Everybody gets visitation rights. You know, it's a fair argument, but what's challenging for us is that it looks at that particular instance in a vacuum without everything else associated with it. And that's really difficult for us to do. Maybe there is a point in the future when the market is totally completely different. But there's no guarantee of that, and it doesn't make business sense for us to put time limits like that on it. But I think it's a fair proposal. The point of coming here is we need to listen, we need to provide more transparency to literary agents and authors. So, right now, I would say no, but we do need to be cognizant of these issues as the market evolves. I hope no one from my contract department is here. I don't want to get them in trouble. So I'll just say we couldn't commit to that proposal here.

[QUESTIONS INVITED FROM THE AUDIENCE.]

AUDIENCE: My name is Peter Rubie. I'm with Fineprint Literary Management. Two things seem to be coming out of this. Paul's been talking about, and others have alluded to, the role of the bookseller, and whether the industry should be doing something to support that. My personal view is that booksellers are going to have to make a transition from being purely vendors to being a service industry. But the other issue is, if you look at the contracts you've been getting from Macmillan and from HarperCollins, they're saying you don't have any rights. I wonder if you guys can talk about that.

DE YOUNG: It's absolutely fair to say that there's a difference between dramatic rights and book rights. At Hachette, we have no intention of getting in the way

of an author trying to sell his work as a movie or to a game developer or something along those lines. Our claim is to the written and spoken word. And we want to be able to publish and distribute that in all the formats that represent that. That's what we want to do and that's how we need to look at the business as it evolves, because we want to take advantage of all the new mediums and increase readership. And when we get to enriching stuff, where perhaps it's not quite as defined, we absolutely believe in engaging literary agents and authors in that process. Without that, it's fruitless. We need the author's creative input on things that we want to do, and we need that involvement in the whole process. So, again, our claim is to the written and spoken word, in all the formats that that represents. We don't make claims to dramatic rights.

JASSIN: There's a disconnect maybe between what you believe and what your contracts department perpetuates. Publishers' default position is: Ask for e-book rights and electronic adaptation rights. If you're not represented by a Paul, or a Peter, the publisher will seek, and likely obtain, dramatic rights. Let's just call them derivative rights—the right to adapt a work generally without the author's approval. So if what you were saying was, the author and publisher control enhanced e-book rights nonexclusively and they're going to get together and smoke a peace pipe, to decide who gets to exploit what, with caveats, I would buy that. But it seems like the question is, do publishers get e-book rights, defined as the verbatim text? I don't know what the Guild's position is, but I would say my position is Yes—they get the verbatim e-book rights. Because they might be sold.

But what some publishers call electronic rights, which is the ability to mash up and create derivative works, that's something the publisher just doesn't get. Those rights can interfere with film—or dramatic rights. It's nice to hear that you respect the author's rights to control dramatic rights, but the contracts departments at most major publishing houses do not. I haven't looked at the Hachette contract recently, so this is not an indictment of Hachette.

DE YOUNG: Well, I would invite you to reengage. I can only speak for Hachette, but I think I actually am in line with my contracts group, because my group works very closely with them and that's part of what we think is the right philosophy and strategy going forward. This is a sales pitch: Come publish with us.

AIKEN: Regardless of what the Guild's position is, the fact is that what are now considered traditional e-book rights, the pure text electronic right, generally does accompany the print right. That's part of the deal, and

most authors and agents have accepted that and contracts for years. The trickier thing now is derivative rights, and the problem is for the author who isn't well-represented. There are more traps for the unwary than there used to be. More boilerplate waiting to spring up and capture an author who doesn't know enough about what they're doing, or the agent or attorney who is representing the author doesn't, and I think that's what's changed in the industry fairly recently.

WAXMAN: If you go back and look at old contracts, the agents always retain electronic versions. Now that they're trying to change that, the part that's confusing to me, is that even if we do keep the advanced version,

“The trickier thing now is derivative rights . . . for the author who isn't well-represented. There are more traps for the unwary.”

—Paul Aiken

we're not really allowed to use much of the text if anything. So the problem is what can we really do with that advanced version? If I want to do a Vook, if I want to do a project, I need some text.

JASSIN: Negotiate a holdback.

WAXMAN: You can get 10–20 percent on some kinds of books, a cookbook or a golf book, that's okay. But if we want to do more than that, then what do I really own?

JASSIN: That's why it's called a collaboration.

WAXMAN: Yeah. That's where the collaboration part comes in. But as far as the derivative works piece of it, we hired a lawyer, went in there and got it out. But where does that really get us pragmatically? What have we kept? That's why I keep going back to who is going to do the best job exploiting a particular kind of right, and how is that business model going to work?

MILLIOT: With all the controversy we've had over backlist, it sounds like new contracts aren't really clear about who owns what. Is that a fair statement?

JASSIN: When they're not, you end up living with lawyers.

AIKEN: Some are, some aren't.

DE YOUNG: I would think that ours are. Each contract can be different. We have a boilerplate and we have a general philosophy on how we want to publish and that's why we're here today—to let everybody know what that is. We do want to be clear because you're right, the more ambiguous you are, the more conversations you have down the road, it slows everything else down. We want to be clear and up front about it.

AUDIENCE: My name is Stephanie Samoy. I am from *Guidepost*. Mr. Waxman, you said one of your clients is going ahead with his own publishing venture. How do you see the role of agents moving forward in e-book publishing?

WAXMAN: Well, the author would be doing a partnership with us entirely. We'd be finding him the partner, who would pay a higher royalty, perhaps for less advance, on a print book. We would also conceivably handle the e-book ourselves through my imprint. That's the other part of it, that the agent, in that instance, becomes more the manager of the entire enterprise, figuring out the moving parts, finding out the new opportunities. I would think that the agent could certainly play a role in all of that. It comes down to the relationship, as all of this stuff does. If the author really feels that they can do it independently and doesn't need a partner, fine. But most authors want some kind of partner. They don't want to go it alone. There's a lot to do and a lot of things that would maybe be outside their area of expertise, in terms of organizing and handling certain details. But I should also say that I'm not necessarily encouraging this decision of his, for a number of reasons, not the least of which is financial. It's not something that I am going to suggest to people. But we want to be able to be a good agent for them, so we have to adapt, and offer some value as part of, again, what this is all about, to figure out how we can be helpful to the author, and be important, relevant.

AUDIENCE: I'm Chris Bloom, contracts manager at Scholastic. My question has to do with the math of the royalty rates that you were talking about. You were saying that anybody can do the math, and you're making it seem as if anybody can assess. I would really appreciate it if you walked us through the math so we can see if what you're saying is valid, because I agree with the gentleman from Hachette that you can't look at these numbers in isolation, you can only look at them in the context of a larger P&L.

AIKEN: You know, this sounds like a fun exercise, and we'll send out the math to the world in the next few days, so everyone can assess the math of the print

book world, and print book royalties versus e-book royalties. Everyone can actively debate it.

AUDIENCE: But people come back to me with the statement you made, which is unverified, but you assure us that we can do the math, and I'm going to hear that from everybody, as if it's a statement of fact, whereas we have a counterview which is very valid, which is you can't look at that number in a vacuum.

AIKEN: Okay. So let's take a \$26 hardcover book. The royalty estimate after escalations, or not after escalations, on the deal, is 15 percent. So the royalty rate to the author is exactly \$3.90. Let's now assume that we have an e-book under the old deal—one that Random House would still have but others of the Big Six wouldn't—put out at roughly the same digital list price. Let's say it is exactly the same price, \$26. That book is then discounted to Amazon, they pay \$13 for the book, so you [the publisher] have \$13. That \$13 is split typically 75/25 between publisher and author. So for \$13, I'm getting \$3.25 for the author—those of you with your mobile devices can check the math—and \$9.75 for the publisher. So that's under the existing, the old, model that Amazon likes so well.

Now let's do the agency model: the digital list price will be less than \$26 under the deal with Apple and others. I can't remember what the conversion factor is. There's a table that says what the maximum price is but let's cut it in half, let's say \$13 is your digital list price. The publisher sells through Apple or whomever, and gets 70 percent of the revenue, so that's a total of \$9.10 of income, and then that's split 25/75 between author and publisher, and I'm getting—I did this late at night—\$6.82 for the publisher, \$2.28 for the author. So we have these books being released simultaneously in hardcover and in digital form, and the royalty rates are \$3.90 hardcover, \$3.25 old model for e-books, and \$2.28 with an assumption of a \$13 list price under the agency model. So the author does worse for the e-book, even though it's being released at precisely the same time.

Under the Amazon non-agency model for selling books, the publisher winds up with \$9.75. I understand from Mike Shatzkin that there is a fifty-cent cost for licensing the digital rights management encryption, so let's subtract that out, you wind up with a \$9.25 contribution to the publisher's income, and for the agency model we have \$6.82, subtract out your fifty cents, and we have \$6.32 contribution to the publisher's income.

On the physical book side, we have the \$26 book, which was discounted at a rate depending on what the account is, how big a store we're talking about. Just to keep my math simple, I'm going to use \$13, and you

have a cost of production for that physical book that you have to subtract out. On a typical hardcover book, it depends. If it's a really big bestseller, the unit costs, to get it into the Walmart, are substantially less than a midlist book, where you're getting the book into the individual bookstore, but I think \$3.00 is reasonable, sort of an average of what the cost of production of getting a book into the place of retail is.

Then you have to consider what the return rate is. Return rates vary widely of course, on different hardcover books, but my math is easy if I make it 33.3 percent, because I can just add \$1.00 per unit as the return rate for the production of the book. So that gets me a total of \$4.00 I have to subtract from the \$13. So now I'm down to \$9.00, which the publisher gets after actual unit costs, including getting the book into the bookstore. You then have to subtract from that the author's royalty, which we said before was \$3.90.

So that gets us down to \$5.10 as the contribution to the publisher's bottom line, for a hardcover book. The contribution to the publisher's bottom line after unit costs for the e-book under the old Amazon agency model is \$9.25. So \$5.10 versus \$9.25. The contribution under the agency model is \$5.10 for the physical book, and \$6.32 for the e-book.

In each case, the amount of revenue realized by the publisher increases substantially. In each case, the amount realized by the author goes down. It used to be these things were in balance. We were on the same page. Not anymore. At the barest minimum, in a slightly more fair and a slightly more just world, here's what should happen: The royalty amount per e-book sold should never be less than the royalty amount per hardcover book sold. That's just basic fairness. You're selling the books at the same time; it shouldn't be that the author is actually disadvantaged for each e-book sale, versus each hardcover book sale. That's just common sense, and playing a little bit fair. But really what should happen is that it shouldn't matter to the author so much whether you sell it through e- or print; we should all be in it together, the incentives should be the same, and it's going to be 50 percent or darn close to that.

Publishers quietly acknowledge it; everyone knows it's coming. Publishers are paying off the big authors with bigger advances, so they don't have to get there yet, but someday the wall is going to break. It's starting to already, because we're seeing it on these backlist titles. The wall is going to come down, and frankly, I think the sooner we get there, the better for the industry, so we can begin dealing with the truly bigger issues that we all have to deal with.

JASSIN: I just want a little clarity. You're saying that

the hardcover and e-book, when released simultaneously, should net the author—

AIKEN: The author shouldn't be disadvantaged.

JASSIN: So wouldn't the question be why would you release a hardcover and an e-book at the same time?

AIKEN: That's a long story.

JASSIN: The whole premise of hardcovers was that they were more profitable and went to libraries, and that you waited to sell the paperback. If you look at e-books as the equivalent of mass market paperbacks, you deal with that issue by not dealing with that issue.

AIKEN: I think there's a lot to be said for that, but I'm not sure we can walk back the dog at this point.

JASSIN: Right. I agree.

AIKEN: The other comparison is to a theatrical release for movies. It's critical for the movie industry to have the theater release first and get lots of attention. It gets reviews, everyone focuses on those new movies during that period, and then when it becomes available in DVD everyone knows about the thing and it becomes something to buy. And in the movie industry, you won't find something on Netflix at the same time it's available on DVD; there's another window, so there's another 30-day delay, 60-day delay before it's available on Netflix, and this is because, in an industry that knows what it's doing, you break things down into sales windows, to maximize your revenues. I've got to say, much as I'd like to point the finger at the publishers and say "You messed up," I'm not sure they did because it's a very difficult environment.

The terrain that the publishers have to deal with here is one where there's a very big company that is the biggest player in the e-book market and everyone had to dance to their tune. From that a whole chain of events followed, where publishers were really desperate for something better, and Apple offered something better. Even though the numbers I just described show authors getting lower royalties under the non-agency model, and publishers doing better under the non-agency model, that's for right now. That's how things stand at the moment. But without that agency model, without some way of getting control of one big aggregator, then the e-book market would have gone to the biggest bidder. Whoever could pay the most money, whoever could afford to lose as much money as they wanted in order to capture that market, that lock-in for their e-book reading device, and build what would be the world's biggest book club eventually—whoever could afford to do that would wind up as the winner in the e-book market and would wind up with all the chips.

One of the things about digital technology is the winner take all thing is real, and you have to be really careful that you wind up with a competitive distribution market. The agency model was really the only way to break the hold that Amazon had gained on the

"In the movie industry, you won't find something on Netflix at the same time it's available on DVD . . . in an industry that knows what it's doing, you break things down into sales windows, to maximize your revenues."

—Paul Aiken

e-book marketplace. I don't like what it does to royalties right now, I really don't. I don't like what it does to publishers' revenues, because we're all in this together, but in the long run, it's absolutely essential, or the whole industry would be fighting for scraps.

AUDIENCE: Hi, I'm Andrew Malkin, I oversee book content at Zinio. My question is about image rights. Basically, up to this point, publishers have digitized e-pub or vanilla content. Now we have different form factors, and I'm wondering, are publishers going to reengage Corbis, or Getty, and how we are going to export this content in different categories?

DE YOUNG: There's a lot to say in response to that, and a lot in response to what Paul was saying. I think the good news in all of this is, philosophically I think we're aligned on the idea that, in a perfect world, authors are earning as much as they always have before. I don't think we're disaligned in that regard. What I don't think you are addressing specifically as you were running the numbers—and kudos to you, because a very sage graduate professor told me "Never do math out loud"—is in this period we do have essentially dual costs. We have dual warehouses, we are getting new costs we've never had before, we're not sure where the market is going, and to your point about market hegemony, that was a concern of ours as well. We think, and this is I think where we're aligned, it's very important to have a diverse marketplace, where you can distribute to lots of different places.

What you [Andrew Malkin] asked is whether art,

illustrations, covers, all those kinds of rights can be reused and how do we exploit them digitally. Do we need to go back and reengage Corbis, etc. Getty, and the answer is yes. We have to. That's another cost that has come back on. As we start to do these things, we discover, "You know what? We only have the cover rights to use it exactly as is, and we can't actually cut a profit." So we have to go back and renegotiate. We're doing that with literary agents, for contracts, and we're doing that with the art stock houses, retraining our art departments to make sure that they are getting everything they need, and the contracts are there.

JASSIN: It's called "the old wine in a new bottle problem."

AUDIENCE: Bob Kohn, of Royalty Share. I want to agree with a couple of things that Paul said. One resonates with the experience in the music industry, which is that authors will still need publishers. A lot of musicians have tried the DIY approach in the past few years—tried to do their own mailing, and maybe they eliminate their booking agent, and save 10 percent, and they eliminate their personal manager and they eliminate their lawyer by buying books, and all of a sudden they don't have time to do rehearsals or songwriting. Authors might go through that cycle and find that they really need to have a publisher.

The second thing Paul said that I think should be in the equation here is that you agreed that publishers or whoever is doing this distribution has a responsibility for making sure the data is right so authors get paid correctly. In the physical world, at least you know how many books you printed and you know how many were in the warehouse, and you can count them as they go out the door. But in the digital world, that doesn't happen. Data starts coming in, and things are only going to get more complex. In the music industry you have subscription services.

In the book registry part of the Google settlement, you have institutional subscriptions, where it's going to be a prorated share of God knows how much money, but there's going to be hundreds of millions or billions of transactions that have to be accounted for to make sure everybody gets their right share. And in advertising-based systems like Spotify in the UK, where there's no subscription to pay, you get hun-

dreds and millions of transactions and a very little amount of money. But you have to share that money properly. So there are costs in digital that don't just last three years, that are going to get even more complex as these new business models come along. I sympathize with authors, because they really have to get this math done right. I sympathize with publishers because they all know what's going to be coming down the pike, which is why they might be conservative with respect to these costs and business models.

JASSIN: I think you make an excellent point, especially with the subscription model: Is it going to be a per hit, or a pro rata allocation, what happens if you have a small subscription base of fiction, but only three of five hundred authors are going to get most of the eyeballs? Are they going to get 3 percent of the net? There are lots of interesting issues, and the old con-

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*—Bob Kohn, Audience member,
CEO of Royalty Share*

tracts aren't really up to that. When you look at the bundling clauses, you know, on a print contract, generally the allocation is a pro rata allocation. But if you're the star, why should you be getting a percentage equal to somebody who is not a star? It raises a lot of questions.

MILLIOT: I think that's the subject of our next panel. Thank you all for coming. ♦

Along Publishers Row

Continued from page 2

THE CHASE: **Hampton Sides's** *Hellhound on His Trail* moved quickly onto the bestseller lists for nonfiction. The book is about the murder of **Martin Luther King Jr.** and the hunt for **James Earl Ray**. Sides's earlier books include *Ghost Soldiers*, *Blood and Thunder* and *Americana*.

Sides said on an Internet interview that *Hellhound* marked the first time he had written about an event that had happened during his lifetime. He was five years old and his father was a lawyer in Memphis when the shooting took place. Sides said, "People thought that the city was coming apart." Uncertain about possible riots, Sides's family left town for a few days.

"Most of the books about King," Sides said, "are about his role in civil rights. This book is about the last weeks of his life when he was haunted with the idea that he was going to be killed." But *Hellhound* is just as much about the assassin. "I became fascinated by Ray. He's an odd duck—a complex character."

On TV's *Colbert Report*, Sides said that at the time, the manhunt was the largest in American history, and that the chase was the biggest thing that ever happened in Memphis. "Bigger than Elvis," he said.

LIFE INTO DRAMA: **Adam Rapp** is the author of seven novels for young adults. In 2005, one of his books, *The Buffalo Tree*, was removed from the curriculum at Muhlenberg High School in Pennsylvania by the school board.

Rapp is also a playwright, and he turned that experience into a play that was produced off-Broadway and titled *The Metal Children*. Rapp also directed.

The role of the author was played by **Billy Crudup**. Rapp admitted to

The New York Times that the character on the stage is some version of himself. Rapp said, "We talk a lot about how a novelist travels great distances in his head, but you're actually sitting down, you're stationary."

The article ended with the quote: "I'm trying really hard not to see Billy as me. But the thing is we've shown up at rehearsal, like three times, wearing exactly the same clothes."

In *The New Yorker's* review of the play, critic **John Lahr** wrote: "Writers don't always know what they mean—that's why they write. Their work stands in for them. On the page, the reader meets the authoritative, perfected self; in life, the writer is lumbered with the uncertain, imperfect one."

WAR TALE: **Laura Hillenbrand's** *Seabiscuit*, published in 2001, was a bestseller and a finalist for the National Book Critics Circle Award. It was made into a popular movie, too. Her second book, due out in November, is titled *Unbroken*. It is an account of **Louis Zamperini**, a World War II bombardier who crashed into the Pacific, was marooned on an island for 47 days, captured by the Japanese and held for two years.

Hillenbrand's editor told *The New York Times* that the book is "a story of fierce determination in the face of nearly insurmountable challenges, set against a backdrop of a fascinating period in American history."

EDITORS DESCRIBED: **Giles Harvey**, a former member of *The New York Review of Books* staff, wrote in that magazine: "Vladimir Nabokov referred to editors as 'pompous avuncular brutes.' T. S. Eliot said that many of them were just 'failed writers.' And **Kingsley Amis**, that laureate of cantankerousness, spoke of how the worst kind 'prowls through your copy like an overzealous gardener with a pruning hook,

on the watch for any phrase he senses you were rather pleased with, preferably one that also clinches your argument and if possible is essential to the general drift of the surrounding passage.'"

TREASURE: **Chaim Grade**, a notable postwar Yiddish author, died in 1982. His widow, **Inna Hecker Grade**, died last May, after spending many years refusing efforts to translate or publish Grade's works. Early books that established his reputation included *The Yeshiva*, *My Mother's Sabbath Days* and *Rabbis and Wives*.

No will was left so the Bronx public administrator of the estate asked four institutions to examine Grade's papers and decide their literary and monetary value. The four are the YIVO Institute for Jewish Research in Manhattan; the New York Public Library; the National Yiddish Book Center in Amherst, Mass., and Harvard University.

The New York Times said that the hope is that someone now will "unearth a never-published manuscript." **Aaron Lansky**, president of the Book Center, said, "This is our thrilling moment in Yiddish literature, this is our Dead Sea Scrolls."

PING! The folks in charge of the Grand Slam tennis tournament at Wimbledon hired a "Championships Poet" to write a poem every day of the tournament this year. The Associated Press said that subjects ranged from "umpire and racket stringers to the ball boys and ball girls; from the grass and its bounce to rain and the roof; strawberries and cream and all the unfolding drama of the matches and players."

The job went to **Matt Harvey**, a British poet and comedian.

GUN FOR HIRE: The young **Gore Vidal** had a bestseller, *The City and the Pillar*, and then found himself in financial difficulties. His editor told him, "We have [**Mickey**] **Spillane**.

Now we need an up-to-date **S. S. Van Dyne**."

So, Vidal told interviewer **Charles Ruas** in *Conversations with American Writers*, "I published three mystery stories, all written in one year. I wrote each one in eight days. Each has seven chapters of ten thousand words. I would do ten thousand words a day, and on the eighth day I would revise. They were published under the pseudonym Edgar Box and received glowing reviews."

MORE ROTH: **Henry Roth's** first novel, *Call It Sleep*, was published in 1934. It sold poorly but is now considered a classic. Roth didn't write again until the 1990s, when he published four novels. Now a fifth, *An American Type*—put together by **Willing Davidson**, a fiction editor at *The New Yorker*—was published in June.

An American Type was cut out of a 1,900-page manuscript left over when other unpublished material was reshaped and published as *Mercy of a Rude Stream*.

Davidson told *The New York Times* that Roth would work on a scene or a character for as long as it interested him and then jump to something else. Davidson's first step was to make a chronology on a spreadsheet and start organizing the material. Davidson said that Roth "was always worried about fitting in. Roth could be very self-involved, but in *An American Type* I think was trying to move outward, to take the real temperature of America, and I think he succeeded."

CELEBRATION: All summer, events that are described in *To Kill a Mockingbird* were enacted around the U.S. to celebrate the 50th anniversary of **Harper Lee's** classic novel. The famous courtroom scene was performed in Santa Cruz, Calif. In Monroeville, Ala., residents dressed in 1930s costumes and read passages aloud. In Rhinebeck, N.Y.,

Oblong Books served Mocktails at a party where a band, the Boo Radleys, performed.

The publisher, HarperCollins, helped organize parties, movie screenings, readings and scholarly discussions. In June, four new editions of the novel with different covers were published.

Harper Lee is 84 and was not expected to attend any of the celebrations.

HOTEL SIGNINGS: As a free amenity to travelers, a few hotels are offering events such as author readings. **Garry Wills** discussed his book *Bomb Power* at the Sorrento Hotel in Seattle. *The New York Times* said, "To the hotel's way of thinking, guests who come for an event may stay for dinner or become familiar with the hotel and recommend it to out-of-town friends or colleagues."

A drop-in event to meet the author of a business strategy book may attract business travelers. One business traveler was quoted: "If something interesting is going on in the lobby, it makes the trip feel like less of a chore."

DANGER: **Henry Alford** seldom fails to hit at least one literary note in his weekly "10 Things to Talk About" listings in *The New York Times*. A recent sampling:

"**Newt Gingrich** says that **President Obama** is as threatening as **Hitler** or **Stalin**. Actually, the most threatening person in the world is a man with a book to promote."

"The author **Mary Roach**, whose books include *Stiff* and *Bonk*, forgoes a one-word title for her new work, *Packing for Mars*. She wanted to call it *Packing*, but her publishers said it "skewed too N.R.A."

"Next edition of the Oxford English Dictionary may be online only. OMG, QED!"

CONVENTION: "As the book in-

dustry gathered for its annual convention in New York" at the beginning of summer, *The New York Times* reported, "it had plenty to be nervous about: the threat of piracy, the decline of brick-and-mortar stores and the perhaps-too-low price of e-books."

Oren Teicher, chief executive of the American Booksellers Association, told the *Times*, "Some stuff is beginning to sort itself out. I think people want to embrace change."

Jonathan Galassi, president of Farrar, Straus & Giroux, said in a panel discussion, that the industry is in "the first wave of a technological revolution with [a] depth and force we haven't experienced since the invention of movable type."

Michael Norris of Simba Information, which provides research to publishers, gave a presentation entitled "I'll Never Pay More Than \$9.99 for an E-Book! And Similar Lies." He said, "There's money to be made in e-books. There's money to be made in print books too. There's no reason why publishers shouldn't pursue both and just not let the hyperbole get out of control."

FETE: When **Herman Wouk**, author of more than a dozen books, including *The Caine Mutiny* and *The Winds of War*, turned 95 recently, his publishers celebrated with an advertisement that plugged his latest title: *The Language God Talks*.

MORE BOND: **Jeffery Deaver** joins the list of writers who have taken up James Bond, the character created by the late **Ian Fleming**. Deaver, author of *The Bone Collector* and *Garden of Beasts*, was chosen to write a new Bond novel by the Ian Fleming estate. It is scheduled for publication next May.

BOOK TALK: Despite all the stories about independent bookstores folding, Partners & Crime, on Manhattan's Greenwich Avenue, continues

to lure fans of crime fiction and mysteries. **Michael Wilson** wrote in *The New York Times*, "The employees at Partners & Crime pride themselves on the breadth of knowledge of the genre."

Books are shelved with signs that say "Great Tough Guys," "Great Tough Girls," "Serial Killer Thrillers," and a new section: "Scandinavian."

Customers looking for just the right book are asked, "Tell me two books you wish you could read again." Wilson said he liked **Mo Hayder's** *Birdman*, and **Maggie Griffin**, one of the store's owners said immediately, "**Val McDermott**. *The Mermaids Singing*. *Wire in the Blood*."

Wilson ended with, "Try having that conversation with a Kindle."

THE LOOK: **Verlyn Klinkenborg**, a contributor to *The New York Times* editorial page, wrote a piece about things he enjoys about e-books, but complained that digital books "look vastly less 'finished,' less genuine." He added, "we can vary their font and type size, making them resemble all the more our own word-processed manuscripts. Your poems—no matter how wretched or wonderful they are—will never look as good as **Robert Hass's** poems in the print edition of *The Apple Trees at Olema*. But your poems can look almost exactly as ugly—as e-book like—as the Kindle version of that collection."

"All the e-books," Klinkenborg wrote, "I've read have been ugly—books by **Chang-rae Lee**, **Alvin Kernan**, **Stieg Larsson**—though the texts have been wonderful."

On the same subject, **Ander Monson** (described in the *Times Book Review* as a poet, novelist, essayist, editor, designer of Web pages and a compulsive techno-tinkerer) e-mailed: "I wonder about the possibilities electronic readers offer writers in terms of what we can get away with and what power we can

harness . . . but until I see e-books or literary apps that do something that the print book doesn't do better, I'm not very likely to buy into this whole world. Turns out the printed book also reads very well in direct sunlight."

ON SUNDAYS: **A. E. Hotchner** was asked by *The New York Times* to describe his Sundays, and he wrote, "If I'm working on something, a book or a play, on Sunday I usually reread everything that I've written during the week. I just finished a book that will be published God knows when. It's an evocation of a young Hemingway when he came to Paris as an unknown and fell in love with two women."

Hotchner's most recent book is *Paul and Me: 53 Years of Adventures and Misadventures with My Pal Paul Newman*.

CAMUS SAID: In an essay in *The New York Review of Books*, novelist **Edmund White** wrote: "Camus said that American writers were the only ones in the world who weren't also intellectuals. I suppose what I'm saying is that writers shouldn't lose twenty points of IQ when they turn away from essays to fiction. They should remain true to whatever it is that deeply engages them in writing, no matter what the genre."

MORE VAMPIRES: Vampires are mad for blood, and a lot of readers seem to have gone mad for vampire stories. One of many writers profiting from this appetite is **Jessica Bird**. She writes paranormal romance novels under the name J. R. Ward, and her latest, *Lover Mine*, made the bestseller lists.

Bird went to Smith and then got a law degree. She worked for many years in healthcare administration. In 1991 her husband encouraged her to get her manuscripts to an agent. She now has 19 titles according to Wikipedia.

In an Internet interview, Bird said, "It takes me about nine months from outline to finished first draft and then there are revisions and copy edits and galley proofing. I outline extensively—I have to, because there are so many points of view in the Brotherhood [her vampire series] books. . . ."

"I write every single day. No matter what, no excuses . . . my books come to me like movies in my head, and my job is to put the scenes in order and then get them on the page. . . . I will say I have no control over the stories—if I try to muscle them in any way when I'm writing, the visions dry up and I'm left with nothing."

SIGNING PLUS: **Peter Khoury** wrote in *The New York Times* about how he liked to visit rare and used bookstores and collect books signed with messages by the author.

One of his treasures is a first edition of *Round Up*, a 1929 collection of short stories by **Ring Lardner**. The author wrote:

*This book has had some
swell reviews
From people who know
more than youse.*

Tom Wolfe wrote in a copy of *Radical Chic and Mau-Mauing the Flak Catchers*:

*To Calvin
with thanks for his kind words
about this Tom Foolery,
Best Wishes
Tom Wolfe*

MISSPENT: Agent **Bill Glegg** turned his life story of crack addiction, total crash, and then rehabilitation into a book that began to get publicity even before its publication in June. His destructive ways are described in *Portrait of an Addict as a Young Man*. The photogenic Glegg (six photos of him) got a major article on the front page of *The New York Times's* Sunday Style section.

According to the *Times*, Glegg's clients were not surprised, since in his days as an agent, "he came across like a writer himself—intropective and measured—and not given to the usual pretensions and histrionics of agents."

He wrote most of his memoir on a friend's 90-acre farm near Red Hook, N.Y., where he rented a house with fellow writers and artists. He said that he chained himself to the kitchen table for three weeks and wrote 130 pages. "It sort of gushed out like a transcription," he told the *Times*.

SURRENDER: Larry McMurtry finally gave up his resistance to e-books and all of his titles are now available in e-book form. The Kindle edition of *Lonesome Dove* is \$12.99. In a statement, McMurtry said, "I hope the public will welcome my books to e-books, fresh fields and pastures new."

STORY MAN: *Time* magazine described James Patterson as a "prolific novelist." The Internet lists more than 50 titles, some with co-authors.

In response to questions from *Time*'s readers, Patterson said that the most important element in a successful murder mystery was "story, story, story. My style is colloquial. It's the way we tell stories to one another."

Patterson said, "The end is always the hardest for me because you've built up expectations. What I do, it's very emotional. I have to feel it."

Asked about critics who complain about his prose, Patterson said, "I am not a great prose stylist. I'm a storyteller. There are thousands of people who don't like what I do. Fortunately there are millions who do."

LITERARY VAMPIRE: Justin Cronin is a graduate of Harvard and the Iowa Writers' Workshop who has

published two literary novels and won a PEN/Hemingway award. He was teaching literature at Rice University when he began writing a vampire tale, *The Passage*.

The 766-page novel was a success even before its June publication. *New York* magazine reported that he received \$3.75 million for a trilogy (*The Passage* is the first volume) and \$1.75 million for film rights. He did a 20-city international book tour.

Is the book literary or is it an attempt to cash in on the current craze? Cronin told *The New York Times*, "I think literary is shorthand for appreciated, and commercial is shorthand for sells. I did not undertake the writing of this book thinking that it was one thing or the other, or even that books in general have to be one thing or the other. Those are descriptions of what happens to a book after it's written."

The author explained: "The vampire narrative deals with the fundamental question, the basic human question, and that is, what part of being human is defined by the fact that we're mortal? If you got to be immortal, would you be trading away your humanity? It's the fundamental question of what is death to being alive. The vampire story gets at the heart of that. It reassures us that we'd rather be human."

CALL FOR CLINT: All 14 of Lee Child's Jack Reacher novels have been optioned for the big screen. PW listed the actors who were being considered for the leading role and commented: "If only Clint Eastwood were still 38."

The latest Child's No. 1 bestseller is *61 Hours*.

BIG MOVE: After five years as publisher and editor of the Twelve imprint, described by *The New York Times* as a "boutique" publisher of only a dozen books a year, Jonathan Karp moved to Simon & Schuster to

replace David Rosenthal as publisher. Twelve was described as "experimental, author-friendly." At S&S, Karp will oversee the publication of more than 100 books a year.

Karp told *The Times* that he thought Twelve could continue without him. "I'm leaving behind a lot of really talented authors and wonderful colleagues, and I want the Twelve model to continue to succeed. There's room for all kinds of publishing." Twelve published books by Edward M. Kennedy, Christopher Buckley and Christopher Hitchens.

EXPERIENCE: Phillip Margolin's *Supreme Justice* hit the bestseller list. It was published just as the nomination of Elena Kagan to the Supreme Court was big in the news. The thriller is about an attempt to fix a Supreme Court nomination and a plot to murder a justice.

PW said that Margolin, a lawyer, has argued a case at the Supreme Court.

TEACHER TOO: Ann Beattie is notable for having had 48 short stories published in *The New Yorker*. Her first book in five years is a novella, *Walks with Men*.

Beattie has also taught at the University of Virginia since 2001. She told *The New York Times* that there are both good and bad things about teaching. "Teaching has helped me clarify a lot of my theoretical interest in writing. It's easier for me to express things. I can put myself in the exact moment when I wish something was happening or when something seems too conventional. I wouldn't be doing that if I didn't happen to be teaching."

But that kind of thinking was not particularly helpful to her own writing. She said, "It's another set of interference in my brain that I have to get out, one more thing I have to put out the back door."

Beattie said she was intimidated

by how much writing there is out there, "and I'm aware of how much of the world there is that isn't about writing. It was different when that seemed like my one talent, and I was just so eager to see what would become of it."

FOREWORD: **Nelson Mandela's** *Conversations with Myself* has an October 2 publishing date. Farrar Straus announced in June that **President Obama** has provided a foreword.

20 UNDER 40: In June, *The New Yorker* published its summer fiction issue and named 20 writers under the age of 40 to a kind of honor roll. The editors wrote, "What we have tried to do, in selecting writers featured in this issue, is to offer a focused look at the talent sprouting and blooming around us." The magazine claimed that these "men and women dazzlingly represent the multiple strands of inventiveness and vitality that characterize the best fiction being written in this country today."

The 20 so blessed by this endorsement were **Nell Freudenberger**, **Philipp Meyer**, **C. E. Morgan**, **Salvatore Scibona**, **Joshua Ferris**, **Gary Shteyngart**, **Jonathan Safran Foer**, **Nicole Krauss**, **Tea Obrecht**, **David Bezmozgis**, **Dinaw Mengestu**, **Sarah Shun-lien Bynum**, **ZZ Packer**, **Wells Tower**, **Chimamanda Ngozi Adichie**, **Daniel Alarcon**, **Yiyun Li**, **Chris Adrian**, **Rivka Galchen** and **Karen Russell**.

10 UNDER 10: **Craig Welter**, an attorney in Washington inspired by the above, made a list for *The New York Times*. He explained: "In the wake of *The New Yorker's* recent '20 Under 40' list of gifted fiction writers who have not yet reached age 40, the literary community has turned its attention to even younger emerging talent."

Here are the first three lucky

writers Welter singled out for that honor:

"Rachel Besculides's second collection of letters to **Justin Bieber**, *No One Loves You Like I Do*, was published in January.

"Emma Bryant's biography of Jennifer Costawicz, *Jennifer Costawicz Is Mean and Fat and Is Not My Friend Anymore*, is available in paperback.

Matthew Chu's anthology of essays, *Big Dogs Are Scary. And Dragons*, was published in March. He lives in Michigan. . . ."

COSTLY COVER: PW did an article about the photographing of a model for the jacket on *Pretty Little Liars*, a HarperTeen series by **Sara Shepard**.

A typical shoot costs \$18,000. On this job Harper sent two editors and an art director. There was also a stylist, photographer, his assistant, a digital technician, the model, and hair and makeup artists. The author was not invited.

PW estimated that this shoot cost \$26,000.

SERIOUS RESEARCH: **Cindy Gerard's** *Risk No Secrets* is a paperback mass market bestseller.

PW said the author often places her characters in serious jeopardy and by way of research she has "swum with giant manta rays, hiked the Grand Canyon, gone white-water rafting and (gulp) jumped off a 40-foot cliff into the frigid waters of the Colorado. . . . [S]he confides that once she even went an entire day without chocolate."

GAMBLING GAME: **John Steinbeck** said, "The profession of book writing makes horse racing seem like a solid, stable business."

CALL FOR HELP: **Mo Willems's** *City Dog, Country Frog* is a children's picture book bestseller. It is the first book for which author Willems himself did not do the illustrations. He

tried, but he said that nothing he did seemed to work.

Willems told PW that he had wished that he could paint like **Jon J Muth**, and so he called him. A collaboration was born.

The city dog in the illustrations is based on Willems's dog Nelson.

PARALLEL VERSIONS: **Laura Miller**, a staff writer for Salon, asked a question in *The New Yorker*: "What's behind the boom in dystopian fiction for young readers?"

Miller writes, "Dystopian novels for middle-grade and young adult readers (M.G. and Y.A., respectively, in publishing-industry lingo) have been around for decades." Today, it's become a thriving genre. "To thrill [these readers], a story doesn't have to be unprecedented. It just has to be harrowing."

Miller lists and describes a number of novels and successful series, many of which are read by adults too. She believes that in the future, these tales may be incited by technologies or social trends yet to be conceived. "By then," she concludes, "reality TV and privacy on the Internet may seem like quaint outdated problems. But the part about the world being broken or intolerable, about the need to sweep away the past and make room for the new? That part never gets old."

NEW IMPRINT: Little, Brown will call a new mystery imprint "Mulholland Books." It will launch next year with books by **Marcia Clark**, **Lawrence Sanders**, **Sebastian Rotella** and others. By 2012, the plan is to publish 24 books a year—a new hardcover and a paperback each month.

PW said that the editor is **John Schoenfelder**.

LARSSON'S WAY: In a front page article in *The New York Times*, **Julie Bosman** wrote: "Publishers and booksellers are in a rush to find more

Nordic noir to follow **Stieg Larsson's** Millennium Trilogy, known for the indelible characters of Ms. Salander and the investigative journalist Mikael Blomkvist." The books have sold six million copies in the U.S. and 35 million worldwide.

But it may not be the Scandinavian setting that has made the books so popular. **Cathy Langer**, buyer for Denver's Tattered Cover stores, told the *Times* that Larsson's books have caught on because of their ambitious scope, complex characters, strong writing and quick storytelling.

Langer said, "It's a tricky line to walk. I'd probably ask [potential book buyers] if they'd read any **Henning Mankell**. But if you try to duplicate the experience, you're likely to disappoint the customer."

SUBJECT MATTER: Katherine Mansfield observed: "Looking back, I imagine I was always writing. Twaddle it was too. But far better twaddle or anything, anything, than nothing at all."

SLOW START: John Lescroart's *A Plague of Secrets* is a paperback best-seller. *PW* said that the author wrote his first novel while in college and a second one after graduating from UC Berkeley in 1970.

He didn't try to publish either until 14 years later when his wife urged him to submit *Son of Holmes* to New York publishers. The book got two offers, one in hardcover, and his writing career began. Lescroart's novels have been translated into 16 languages in 72 countries.

PEN THRILLERS: Richard Price, author of *The Wanderers* and a half dozen other novels, will write a series of detective thrillers under the pen name Jay Morris. The first one is scheduled for the fall of 2011.

FACTORY: Susan Spaeth Kyle's Web bio says she has written more

than 115 books. (Wikipedia says there are more than 150 titles.) Most of them carry the name Diana Palmer. Her current bestseller is a hardback, *Dangerous*. She also writes under the names Diana Blayne, Katy Currie, Susan Kyle and Susan S. Kyle.

According to her biography on the Internet she has three publishers and writes contemporary romance, historical novels and science fiction. She grew up in Georgia, but many of her novels have Texas backgrounds. She has a pet emu named George. She loves Spanish-language soap operas and fast cars. She drives a Jaguar.

Wikipedia says that she graduated from college at the age of 49 and is working on a masters' degree in history at California State University. There is no information about when she has time to write all her books.

PAIN: Melanie Thernstrom is author of *The Pain Chronicles*. She told *PW* that her own pain began 12 years ago, and she tried alternative treatments. The pain grew worse. The book came out of an assignment for *The New York Times*.

Thernstrom observed seven pain clinics and did hundreds of interviews with doctors and patients. One patient saw 82 doctors and finally got successful treatment from a chiropractor in Colorado.

Thernstrom said, "I wish I could be cured, but I think my pain is okay the way it is. . . . I consider myself a success story too. Maybe the people who get cured are the ones who leave no stone unturned."

UPDIKE PAPERS: Sam Tanenhaus, editor of *The New York Times Book Review*, got an early look at the mass of papers the late **John Updike** bequeathed to the Harvard Library. Tanenhaus was impressed by the way Updike had fended off the public while leaving "an enormous ar-

chive fashioned as meticulously as one of his lathe-turned sentences."

Many of the most revealing quotes come from letters Updike wrote to his parents. In 1951, he wrote: "We do not need men like **Proust** and **Joyce**; men like this are a luxury, an added fillip that an abundant culture can produce only after the more basic literary need has been filled.

"This age needs rather men like **Shakespeare**, or **Milton**, or **Pope**; men who are filled with the strength of their cultures and do not transcend the limits of their age, but, working within the times, bring what is peculiar to the moment to glory. We need great artists who are willing to accept restrictions, and who love their environments with such vitality that they can produce an epic out of the Protestant ethic."

Tanenhaus's article ended with Updike's appreciation of "'*The New Yorker* when it still published many pages of fiction and Alfred A. Knopf Inc. when publishing was still a gambit for sensible gentlemen who trusted their own taste.' These advantages reflected 'a world where books were a common currency of an enlightened citizenry. Who wouldn't, thus conditioned, want to keep writing forever, and try to make books that deserve to last?'"

WRONG: Kathryn Schulz's first book is titled *Being Wrong: Adventures in the Margin of Error*. She wrote about her struggles writing the book in a *PW* essay.

"I figured I knew how to write a book based on the fact that I'd read plenty of them and written plenty of articles. Along similar lines, I once took a friend's motorcycle for a spin, reasoning that I knew how to ride a bike and drive a car. That didn't go well either. True, I was at home with words and ideas, but I had no idea how to construct a chapter, or stay off the Internet when I was supposed to be writing, or organize my

days. . . . Writing your first book isn't hard because you have to build the house. It is hard because you have to build the hammer."

GOOD WRITING: British writer **David Mitchell** was the subject of a major article in *The New York Times Magazine*. He lives in West Cork, in southwest Ireland, with his wife and two children. His fifth novel, *The Thousand Autumns of Jacob de Zoet*, was published in June. The article about him was entitled "The Experimentalist," and the subtitle said his work "shows that the novel can still be reinvented."

Mitchell told the *Times* that when you read writing that is great, "your mind is nowhere else but in this world that started off in the mind of another human being. There are two miracles at work here. One, that someone thought of that world and people in the first place. And the second, that there's this means of transmitting it. Just little ink marks on squashed wood fiber. Bloody amazing."

THE GIFTED: **James Wood**, a critic and author of *How Fiction Works*, wrote in *The New Yorker*, "When people talk about 'natural storytellers,' they are probably paying an unintended compliment to the unnatural. They mean that such writers are unnaturally gifted in artifice; that, better than the rest of us, they can draw us in, sound a voice, shape a plot, siphon the fizz of suspense. Yet the compliment is not merely inverted, since even freakish mastery of such tricks does not account for those impalpable gifts—the tremor of presence on the page, the overflow of vitality—which rival the abundance, even gratuitousness, of nature itself."

LAUREATE: **W. S. Merwin**, 82, was named 17th poet laureate by the Library of Congress in July. He lives in Maui, Hawaii, and is the author

of more than 30 volumes of poetry, translation and prose.

Dana Gioia, former chairman of the National Endowment for the Arts, told *The New York Times*, "W. S. Merwin is an inevitable choice for poet laureate. He has created a distinctive style. His poetry is lyrical, elliptical and often slightly mysterious." Merwin's work frequently appears in *The New Yorker*.

SEQUEL: **Oscar Hijuelos's** *The Mambo Kings Play Songs of Love* won a Pulitzer Prize in 1990. Now, after six other novels, Hijuelos has written a sequel, *Beautiful Maria of My Soul*. *Mambo Kings* was set in New York; the new novel's locale is Miami, where *The New York Times* interviewed the author.

The *Times* reporter wrote, "He smiles most broadly when he talks about those who say they remember hearing the Mambo Kings play, as if they were real."

Of this new book, Hijuelos said, "I know for a fact that there are many Marias in Miami who are lovesick for musicians. I wrote the book on the assumption that it's a true story; it may not be, but it feels real to me."

AWARD: The Center for Fiction gave its 2010 Maxwell Perkins Award for Distinguished Achievement in the Field of Fiction to **Amanda Urban** at ICM. The awards have been given annually since 2005. Urban is the first agent to get the award.

PROMOTION: **Rita Emmett** of Chicago sent word that she had been promoting her latest book, which is in the running for the longest title of the year: *Manage Your Time to Reduce Your Stress: A Handbook for the Overworked, Overscheduled and Overwhelmed*. She said that she and that title got the whole 30 minutes of **Bill Campbell's** *Chicago* on ABC-TV.

A search on the Web showed that Emmett did a video last year while wearing a witch's hat that jumped up and down on her head.

NIGHT TALK: The following is an exchange of dialogue in **David Mitchell's** 1983 novel *Ghostwritten*. Luisa Rey, a writer, has telephoned Mr. Bat, the host of a late-night radio talk show.

Rey says, "Lunatics are writers whose works write them, Bat."

Bat replies, "Not all lunatics are writers, Mrs. Rey—believe me."

"But most writers are lunatics. Bat—believe me. The human world is made of stories, not people. The people the stories use to tell themselves are not to be blamed. You are holding one of the pages where these stories tell themselves, Bat. That's why I tune in. That's everything I wanted to say."

NEXT: **Rhonda Byrne** is the author of *The Secret*, which spent more than three years on bestseller lists and had more than 19 million copies in print. In August she followed that blockbuster with *The Power*. The publisher claimed that the new book is "the handbook to the greatest power in the universe—the power to have everything you want."

The Secret had a lot of **Oprah**-power behind it.

DEDICATED: Humorist **P. G. Wodehouse** once dedicated one of his many books: "To my daughter Leonora without whose never-failing sympathy and encouragement this book would have been finished in half the time."

The quote is from an article on dedications that **Nigel Fardale** wrote for *PW*.

MEAN MEN: **Daniel Handler**, who also writes more famously as Lemony Snicket, discussed the usefulness of mean heroes in *The New York Times Book Review*. He said,

'When I teach writing I often teach the opening paragraph of *The Long Goodbye* [Raymond Chandler], which ends, 'He looked like any other nice young guy in a dinner jacket who had been spending too much money in a joint that exists for that purpose and for no other.' People think of Philip Marlowe as tough," Handler said, "but he's surprisingly snarky."

ODD JOB: Referring to the paparazzi culture he writes about in his new novel, *Star Island*, **Carl Hiaasen** told *PW*: "It's such a peculiar, predatory way to make a living—chasing pseudo celebrities from club to club, hoping they stumble out the door drunk so you can get a photo."

COMPETITION: In late July, Amazon announced that for the previous three months sales of books for e-readers outsold numbers of hardcover books. One hundred forty-three Kindle books were sold for every 100 hardcovers.

Mike Shatzkin, chief executive of the Idea Logical Company, told *The New York Times*, "This was a day that was going to come, a day that had to come." He predicted that within a decade, fewer than 25 percent of all books sold will be print versions.

The *Times* said, "Still, the hardcover book is far from extinct. Industry-wide sales are up 22 percent this year, according to the American Publishers Association."

E-book sales quadrupled this year through May.

FAVORITES: **Chris Cleave** is author of the best-selling *Little Bee*. The former barman, sailor and journalist may have learned a lot from his favorite authors. Among those he listed for *PW* were **Cormac McCarthy**, **Don DeLillo**, **David Mitchell**, **Virginia Woolf**, **Charles Dickens**, **John Steinbeck** and **Emile Zola**.

READER: Comic **Woody Allen** has recorded four of his short story collections—*Getting Even*, *Without Feathers*, *Mere Anarchy* and *Side Effects*—for Audible.com and iTunes.

Allen answered questions about how "monstrously hard" he found doing the recordings.

"I hated every second of it," he said. He told *The New York Times* via e-mail "that there is no substitute for reading, and there never will be. Hearing something aloud is its own experience, but it's hard to beat sitting in bed or in a comfortable chair turning the pages of a book, putting it down, and eagerly awaiting the chance to get back to it."

OIL GUSH: At least six books about the April 20th explosion of the drilling rig in the Gulf of Mexico are in the works.

Carl Safina, an oceanographer, is writing a book about the environmental consequences of the spill for Crown. **Loren Steffy**, a business columnist for *The Houston Chronicle*, will focus on BP for McGraw-Hill.

David Hirshey, executive editor of HarperCollins, signed up a book he told *The New York Times* would be "the definitive account" of the explosion. **John Konrad**, an oil rig captain, is one of the authors.

Antonia Juhaz, author of *The Tyranny of Oil: The World's Most Powerful Industry—and What We Must Do to Stop It*, has been commissioned by Wiley.

Mike Magner, an investigative journalist in Washington, who spent three years working on a book about BP, is updating his nearly completed manuscript to include material on the disaster. St. Martin's Press is the publisher.

A September publishing date was planned for *The Anatomy of a Disaster*, cowritten by **Peter Lehner**, executive director of the Natural Resources Defense Council, and **Bob Deans**. They were signed in mid-June and given a month to do

the reporting and writing. OR Books is the publisher.

Historian **Douglas Brinkley**, who lives in New Orleans and wrote a book about Katrina, told *The New York Times* that he had no plans to write about the disaster. "I'm sensing oil spill fatigue. We've been seeing so many images of that gusher, I just don't know if people really want to read more about it."

A PACK OF LIES: **Colm Toibin** reviewed a new biography of **E. M. Forster**, *A Great Unrecorded History*, by **Wendy Moffat** in *The New York Times Book Review*.

Toibin observed that "novels should not be honest. They are a pack of lies that are also a set of metaphors; because the lies and metaphors are chosen and offered shape and structure, they indeed represent the self, or the play between the unconscious mind and the conscious will, but they are not forms of self-expression or true confession."

SEQUEL: **Ingrid Law's** first novel, for children, was *Savvy*, published in 2008. It won a Newbery Honor. In an interview with *Totally Writeous* (a blog quoted in *PW*), Law said, "Receiving a Newbery Honor for a first book is an amazing, thrilling experience—wildest-dreams-come-to-life type stuff."

But it also made writing a follow-up book extra challenging. The extra travel, giving speeches and presentations meant "adjusting to an entirely new and different writing process." But adjust she did, and a sequel to *Savvy*, entitled *Scumble*, came out in August with a 100,000 first print run.

POETIC NAMES: **Dana Jennings** reviewed a selection of new books of poetry in *The New York Times*. She began with: "The women and men who run small independent presses, often on a frayed shoestring, know

In Memoriam

Joyce Blackburn
William Borden
Robert J. Burch
Richard Carter
Jean Potter Chelnov
Bernice Curler
Robert V. Daniels
Barbara Thompson Davis
Simon John De Vries
Thomas A. DeLong
Sandford Dody
Wilma Dykeman
Kate Freedberg
Arthur Herzog
Barbara Holland
Arno Karlen
Lucy Kavalier
Bernard M. W. Knox
Arnold Kramish
Hilda Sidney Krech
Edward Kritzler
Nancy Love
F. Gwynplaine MacIntyre
Robert McCord
Osmond Molarsky
Joan Morrison
Evelyn Stefansson Nef
Ron Offen
Roland S. Parker
Walter Schneir
David F. Selvin
Cecile Shapiro
Ruth Chew Silver
Alice Hunt Sokoloff
Dorothy Sterling
Edward M. Swartz
Florence Temko
Robert Terrall
John Ventura
John O. Virtanen
Ann Waldron
Kathleen C. Winters
William Witherup

in their bones that poetry is necessary if underappreciated cultural work—that poetry, even when it’s snubbed by the broader culture, has no expiration date.”

The names of a few of the publishing companies she cited are almost poems themselves: Coffee House Press, Ugly Duckling Presse, Tupelo Press, Copper Canyon Press and Brooding Heron Press.

ABOUT FOOD: **Melissa Clark** is the author of 29 cookbooks. The latest is *In the Kitchen with a Good Appetite: 150 Stories and Recipes for the Food You Love*.

In an article, “Why I write . . .” in *PW*, Clark explained, “Someone once said of the great food writer **M.F.K. Fisher**: she was a passionate woman and food was her metaphor. It’s an image that has stuck with me throughout my career, the idea that what we eat is a touchstone for human existence, and that food writing can tell us about so much more than what was on the plate. Eating is one of the few experiences that knit us all together—whether we encounter it as a source of pleasure and joy or one of anxiety and deprivation. Food is a basic need we all confront every day and, for me, it’s a compelling force in why I write.”

TREASURE: Manuscripts, letters and journals by **Franz Kafka**, in safe-deposit boxes in Tel Aviv and Zurich for decades, have been released. Kafka, who died in 1924, had asked that all his personal papers be burned, but **Max Brod**, his friend and executor of his will, failed to follow those instructions.

A hand-written short story by Kafka, never seen before, is among the papers. The National Library in Israel claimed that the papers are “cultural assets belonging to the Jewish people.”

MYTH TOO: *The Wilding* is the title of **Benjamin Percy**’s first novel, pub-

lished after two volumes of short stories. Percy is creative writing professor at Iowa State University.

In a *PW* profile, he said, “If you’re writing a story, you need to incorporate fully the history, geography, culture, the myths of the place.” Most of his fiction is set in Oregon, where he grew up.

The Wilding is about a remote canyon out west that’s scheduled for development. The myth is Bigfoot. Percy said, “What I hope is that *The Wilding* is a literary thriller. That’s what I set out to do.”

ON THE ROAD: **Mona Simpson**, 53, enjoyed success with her first novel, *Anywhere but Here*. Her new book is *My Hollywood*. She lives in California, but when she came to New York to see her editor in July, she became the subject for a major article in *The New York Times* Style section. Simpson avoided Manhattan’s West Side, where she lived for years. She said, “it makes me sad.”

Her new book is about a woman named Claire, “a stressed classical composer and East Coast transplant living, like Ms. Simpson, in Santa Monica.”

Simpson said she knows lots of people on the West Coast who write books, as well as playwrights and screenwriters. A bunch of them are in a book group that occasionally meets at Simpson’s house near the beach.

BIG PRINTING: **Jeff Kinney**’s fifth Wimpy Kid book, *The Ugly Truth*, got a first printing of five million copies. Abrams says 35 million copies of Wimpy Kid books are in print.

Kinney told PublishersMarketPlace: “To me, the fifth book is the linchpin of the series. Since Greg Heffley is a cartoon character but also a literary character, I’ve always wondered if he should grow up or stay in a state of arrested development forever. This book answers that question once and for all.”

IMPERFECTION SOUGHT: **Nicole Krauss's** new novel is *Great House*. She told *PW* that she shifted from poetry to fiction because she thought there was a "possibility for perfection" in poetry and "that novels are necessarily imperfect." She added that in fiction "there's a potential for enormous discovery."

She went on to explain that she writes the way she thinks. "I've developed this habit of starting at very distant, foreign points and moving inwards. I'm trying to understand: what is the connection between these feelings, these places, these ideas? It's the itch I have that needs to be scratched. And it pleases me."

MAUGHAM'S WAY: In her new biography, *The Secret Lives of Somerset Maugham*, author **Selina Hastings** described how the writer worked: "The countless stories in his head meant he was never at a loss for a subject; indeed, most of his life was passed in a state of possession, with ideas for plays, novels, and stories dominating his thoughts, not letting him rest until he had written them down. Because he lived with his themes and characters for months beforehand, sometimes years, there was never any need for an outline, and when eventually he was ready to begin he wrote fast, not stopping for anything. While in the middle of a novel, Maugham said, his characters were more real to him than the characters of real life; he inhabited a different dimension, more vivid and more meaningful than the physical world outside."

MOTTO: In its early days, Amazon promoted itself with a fridge magnet that said, "A room without books is like a body without a soul.—**Cicero**."

NO MEMOIR: After becoming the object of scorn by TV news twitters because of rumors that he was writ-

ing a memoir, 16-year-old pop star **Justin Bieber** admitted on Twitter, "I'm a little too young to write a memoir." The much talked about "memoir" will be a behind-the-scenes picture book of his tour.

NIGHT LIFE: **Taylor Plimpton**, 33, wrote a first book, *Notes from the Night: A Life After Dark*. The publishing party was held at the apartment of his late father, writer and editor **George Plimpton**, the scene of many a famous literary fete. This occasion was described on the Style pages of *The New York Times*.

Guest **James Lipton**, host of TV's *Inside the Actors Studio*, said, "My somewhat misspent youth was spent right here. This was the setting for, without question, the only American equivalent of the great salons of the 1920s in Paris. The past has been flooding back."

Another guest was **Terry McDonnell**, editor of *Sports Illustrated*. He said, "With George's writing, it was always about this new experience, this voice of discovery. With Taylor," he continued, the focus is on "internal dialogue and observation. You don't necessarily get the sense that he's trying to show you around SoHo. George would show you around."

MILESTONE: In November, *The New York Times* announced that it would begin an e-book bestseller list early in 2011.

Janet Elder, editor of news surveys, said the newspaper had spent two years creating a system that tracks e-book sales. "We've had our eye on e-book sales since e-books began," Elder said. "It was clear that e-books were taking a greater and greater share of total sales, and we wanted to be able to tell our readers which titles were selling and how they fit together with print sales."

E-books were up from \$105.6 million in 2009 to \$304.6 in the same

period of 2010. That was a nearly 190 percent increase. Some experts have predicted that e-book sales will rise to 25 percent in the next two or three years.

The *Times* now publishes 14 best-seller lists, including fiction, non-fiction, advice books in hardcover and paperbacks as well as children's books and graphic books.

THE VITAL PART: The prolific Irish writer **William Trevor** was interviewed on the BBC recently and quoted in *The New York Review of Books*. Trevor said, "To me the vital part and the most exciting part of writing is what you decide should not be there. . . . You have to be very courageous and destroy all the stuff that actually you think is very good and it might be perhaps a little good but you've got to get rid of it, it doesn't belong and that's what the—my—game is."

COVER MAN: The headline in *The New York Times* said: "First in a Decade: Living Novelist on Cover." **Jonathan Franzen** (his new novel is *Freedom*) was the lucky writer who made the cover of *Time* magazine, in the footsteps of **Tom Wolfe**, **Toni Morrison**, **George Orwell**, **John Updike**, **John LeCarre** and **Norman Mailer**.

Then, before the book was in the shops, the *Times* published an article with the heading "A Novel Is All the Rage Even Before It Is Sold."

"Within this Franzenfrenzy," said the *Times*, "there is the whiff of Franzenfury, or Franzenfreude, as the novelist **Jennifer Weiner** has called it. She and Ms. [**Jodi**] **Picoult** have recently unleashed a steady stream of Twitter jabs about Mr. Franzen and *The New York Times*, charging that female novelists are unjustly overlooked by critics."

Franzen's first novel, *The Corrections*, sold almost three million copies. His publisher, **Jonathan**

Galassi, president of Farrar, Straus, said, "I suspect that those who are saying that *Freedom* has been overpraised have not read the book. Once they have—as I hope they soon will—I believe they too will see how deeply and movingly Jonathan confronts contemporary life."

BIG BUCKS: *Forbes* magazine listed the top-earning authors in the year ending June 1. They were **James Patterson**, \$70 million; **Stephenie Meyer**, \$40 million; **Stephen King**, \$34 million; **Danielle Steel**, \$32 million; **Ken Follett**, \$20 million; **Dean Koontz**, \$18 million; **Janet Evanovich**, \$16 million; **John Grisham**, \$15 million; **Nicholas Sparks**, \$14 million and **J. K. Rowling**, \$10 million.

No surprises there, except that Rowling didn't publish a single new book during that period.

HOW MANY: **Jennifer Schuessler** asked in her *New York Times Book Review* column: How many books are there on earth?

She wrote, "Google Books crunched the metadata and came up with a count of all the books ever published: 129,864,880—at least as of 8:26 a.m. on August 5." How many of those are yours?

TRUTH: In a review of *Muriel Spark: the Biography* by **Martin Stannard** in *The New York Review of Books*, **David Lodge** borrowed a quote from a Spark novel. A fictional young writer said, "I wasn't writing poetry and prose so that the reader would think me a nice person, but in order that my set of words should convey ideas of truth and wonder."

Lodge observed: "That aim the mature Spark triumphantly achieved."

NEW JOBS, NEW TITLES*

Anjali Singh has been named senior editor at Simon & Schuster

and is looking for nonfiction and fiction—literary, graphic and commercial.

Kelli Chipponeri is children's editorial director at Chronicle. **Leigh Saffold** is associate managing editor of Custom Publishing at Chronicle.

Weronika Janczuk has joined D4EO Literary Agency as an agent. She is looking for single-title romances, commercial and literary fiction.

Amanda Johnson Moon is senior editor at Farrar, Straus, overseeing acquisitions for a new Scientific American imprint.

Philip Rappaport, a former senior editor at Bantam Dell, is acquiring and editing literary and commercial nonfiction for Canada's McClelland & Stewart from both New York and Toronto.

Adam Friedstein is an agent with Anderson Literary Management. He represents debut literary fiction, literary thrillers and suspense, young adult fiction and serious nonfiction.

Meagan Stacey has been promoted to associate editor at Houghton Mifflin Harcourt Mariner Books.

Jennifer Banks is senior editor at Yale University Press.

Kalah McCaffrey is at Franklin & Siegal Associates as YA/middle grade book scout.

Shana Corey has been promoted to executive editor at Random House Children's books.

*Compiled from PW and Publishersmarketplace.com

DEATHS

Wye Jamison Allanbrook, 67, died July 15 in Oakland, Calif. An expert on Mozart, she was the author of *Rhythmic Gesture in Mozart* (1983). *The Secular Commedia: Comic Mimesis in Late 18th Century Music*, was completed by her colleagues and will be published.

Beryl Bainbridge, 77, died July 1

in London. The novelist was the author of *The Dressmaker* (1973), *A Quiet Life* (1976), *A Weekend with Claude* (1976), *Injury Time* (1977), *An Awfully Big Adventure* (1989), *The Birthday Boys* (1991) and *Master Georgie* (1998).

Michael Batterberry, 78, died July 28 in Manhattan. The food editor was the author (with his wife) of *On the Town in New York, from 1776 to the Present* (1973).

David Blackwell, 91, died July 8 in Berkeley, Calif. The professor was author of *Theory of Games and Statistical Decisions* (1954) and *Basic Statistics* (1969).

Elise Boulding, 89, died June 24 in Needham, Mass. She was the author of *The Underside of History: A View of Women Through Time* (1973), *Women in the Twentieth Century World* (1977), *Children's Rights and the Wheel of Life* (1978) and *Cultures of Peace: The Hidden Side of History* (2000).

Vance Bourjaily, 87, died August 31 in Greenbrae, Calif. He was the author of *The Hound of Earth* (1955), *The End of My Life* (1957), *Confessions of a Spent Youth* (1960), *The Man Who Knew Kennedy* (1967) and *Brill Among the Ruins* (1970).

Robert Butler, 83, died July 4 in Manhattan. The psychiatrist won the Pulitzer Prize for *Why Survive? Being Old in America* (1975). He was coauthor of *Sex After Sixty* (1978), a bestseller.

Helen Chinoy, 87, died May 24 in Turners Falls, Mass. She was coauthor of *Actors on Acting* (1949), *Directors on Directing* (1953) and a collection of interviews: *Reunion: A Self-Portrait of the Group Theater* (1976).

Ron Fimrite, 79, died April 30 in San Francisco. He was the author of many sports books including *The Square: The Story of a Saloon* (1989), *Birth of a Fan* (1993) and *The World Series: A History of Baseball's Fall Classic* (1993).

Jerry Flint, 79, died August 7 in

Hudson, N.Y. The automotive expert and columnist for *Forbes* magazine was the author of *The Dream Machine: The Golden Age of American Automobiles, 1946–1965* (1976).

Martin Gardner, 95, died May 22 in Norman, Okla. He was the author of *The Annotated Alice* (1960), *The Flight of Peter Fromm* (1973) and *The Incredible Matrix* (1976).

Arthur Herzog III, 83, died May 26 in Southampton, N.Y. He was the author of 16 novels and nine nonfiction books, including *The Swarm* (1974), *Vesco* (1987) and *A Murder in Our Town* (2007).

Elizabeth Jenkins, 104, died September 5 in London. As a biographer, she wrote *Lady Caroline Lamb* (1932) and *Jane Austen* (1938). Her many novels included *The Tortoise and the Hare* (1954), *Brightness* (1963) and *Honey* (1968). Her 2004 memoir was entitled *The View from Downshire Hill*.

Tony Judt, 62, died August 6 in Manhattan. He was the author of several books, including *Past Imperfect: French Intellectuals, 1944–1956* (1994), *The Burden of Responsibility: Blum, Camus, Aron and the French Twentieth Century* (1998) and *Postwar: A History of Europe Since 1945* (2005).

Frank Kermode, 90, died August 17 in Cambridge, England. He was the author or editor of more than 50 books. His literary criticism was published in *The Sense of an Ending: Studies in the Theory of Fiction* (1967 and 2000), *The Genesis of Secrecy* (1979) *The Art of Telling: Essays on Fiction* (1983), and a memoir, *Not Entitled* (1995).

Bernard Knox, 95, died July 22 in Bethesda, Md. He was the author of *Oedipus at Thebes: Sophocles' Tragic Hero and His Time* (1957 and 1998) and editor of *The Norton Book of Classical Literature* (1993).

Gail Koff, 65, died August 31 in Manhattan. A lawyer, she was the author of nine books, including *The*

Jacoby & Meyers Practical Guide to Everyday Law (1985) and *Jacoby & Meyers Guide to Divorce* (1991).

Les Line, 74, died May 23 in Sharon, Conn. The editor of *Audubon* magazine for 25 years produced 35 books as writer, editor or photographer. One was *This Good Earth* (1974).

Lee Lockwood, 78, died July 31 in Tamarac, Fla. The photojournalist wrote several books including *Castro's Cuba*, *Cuba's Fidel: An American Journalist's Inside Look at Today's Cuba in Text and Picture* (1967), *Conversation with Eldridge Cleaver: Algiers* (1970) and *Daniel Berrigan: Absurd Convictions, Modest Hopes—Conversations After Prison with Lee Lockwood* (1972).

Fergus Gwynplaine MacIntyre, 59, died June 25 in Brooklyn. Known as Froggy, the science-fiction writer was author of *The DNA Disaster* (1991), *The Woman Between Worlds* (1994) and *MacIntyre's Improbable Bestiary* (2001).

David Markson, 82, died June 4 in Manhattan. The experimental novelist was author of *Springer's Progress* (1977), *Wittgenstein's Mistress* (1988) and *This Is Not a Novel* (2001).

Peter Orlovsky, 76, died May 30 in Williston, Vt. One of the Beat figures, he was the author of several books of poems, including *Dear Allen, ship will land Jan 23, 58* (1971), *Lepers Cry* (1972) and *Straight Hearts* (with **Allen Ginsberg**) (1980).

Clara Park, 86, died July 3 in Williamstown, Mass. She was the author of *The Siege* (1967) and a sequel, *Exiting Nirvana* (2001), both about autism.

Jose Saramago, 87, died June 18 in Lanzarote, Canary Islands. The Nobel Prize winner was the author of *Baltasar and Blimunda* (1987), *The Gospel According to Jesus Christ* (1992) and *Blindness* (1997). *The Elephant's Journey* was published in September.

Franz Schurmann, 84, died

August 20 in San Francisco. An expert on China, he was author of *Ideology and Organization in Communist China* (1968) and *The Logic of World Power* (1974).

Robert J. Serling, 92, died May 6 in Tucson, Ariz. His best-selling novel was *The President's Plane Is Missing* (1967). Other novels included *She'll Never Get off the Ground* (1971), *Air Force One Is Haunted* (1985) and *Something's Alive on the Titanic* (1990). Nonfiction books include *Howard Hughes' Airline* (1983), *Eagle: The Story of American Airlines* (1985) and *Legend and Legacy: The Story of Boeing and Its People* (1992).

Ben Sonnenberg, 73, died June 24 in Manhattan. The founder of *Grand Street* magazine was author of *Lost Property: Memoirs and Confessions of a Bad Boy* (1991).

Robert C. Tucker, 92, died July 29 in Princeton, N.J. He was the author of *Stalin as a Revolutionary 1879–1929: A Study in History and Personality* (1973) and *Stalin in Power: The Revolution from Above: 1928–1941* (1990).

Ann Waldron, 85, died July 2 in Princeton, N.J. She was the author of *Hodding Carter: The Reconstruction of a Racist* (1993) and *Eudora: A Writer's Life* (1998). She also wrote five murder mysteries.

David Weber, 69, died August 20 in Gallup, N.M. An expert on the Southwest, he was the author of *The Taos Trappers: The Fur Trade in the Far Southwest, 1540–1946* (1971), *The Mexican Frontier, 1821–1846: The American Southwest Under Mexico* (1983) and *The Spanish Frontier in North America* (1992).

Donald Windham, 89, died May 31 in Manhattan. He was the author of *Two People* (1965), a novel, and a collection of stories, *The Warm Country* (1962). His memoirs included *Emblems of Conduct* (1964) and *Lost Friendships* (1987). He also published his correspondence with **Alice B. Toklas** and **E. M. Forster**. ♦

Legal Watch

Continued from page 17

eral thousand Internet users downloaded *Far Cry* illegally through a pier-to-pier file-sharing service, Achte was able to identify 4,577 Internet protocol ("IP") addresses where infringement occurred, as well as the date and time of each instance. In order to identify the anonymous violators by name for the purposes of bringing formal copyright infringement actions, Achte sought a leave of court to serve subpoenas on Internet service providers (ISPs) associated with the infringing IP addresses. The U.S. District Court for the District of Columbia granted Achte leave to serve Federal Rule of Civil Procedure (FRCP) 45 subpoenas on the ISPs, which would require the ISPs to provide information sufficient to identify each defendant, including name, current address, telephone number, e-mail address and Media Access Control addresses. Four of the alleged infringers, Randy Ansell, William Wright, Elise Buel (who is married to Wright) and John Doe (an infringer yet to be identified) made motions to quash the subpoena so that their identifying information would remain private and out of the hands of Achte.

At the outset, the court noted that any person served with a subpoena can move for a protective order under FRCP 26 (c), which authorizes a court to "make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense" upon a showing of good cause. Alternatively, a person served with a subpoena may make a motion to quash or modify the subpoena under FRCP 45 (c)(3). Of particular relevance here is FRCP 45 (c)(3)(iii), which allows a court to quash a subpoena if it "requires disclosure of privileged or protected matter, if no exception or waiver applies." Under both provisions, the burden of persuasion rests with the moving party.

In the case at hand, the four movants made motions to quash. Mr. Ansell made his motion without declaring a reason for doing so. Mr. Wright's motion to quash stated that neither he nor his wife had the ability to copy or distribute the movie. In her separate motion Ms. Buel also denied that she had committed the infringement and asserted that her actual identifying IP address did not match the address in the subpoena. Finally, John Doe made a motion to quash merely because the subpoena sought "personal information."

In evaluating the first three motions, the court noted that by filing under their real names, Ansell,

Wright and Buel had provided the very information that they sought to conceal from Achte, rendering their motions to quash moot. Nonetheless, the Court did evaluate Wright's and Buel's denials of liability, finding that although their denials might have independent merit, any such merit is irrelevant to deciding whether the subpoena served by Achte is valid and enforceable. Since Achte was seeking their identifying information only in order to pursue their claims, movants' defenses are not at issue at this stage of the proceeding.

Finally, the court rejected John Doe's objection to the ISP providing his personal information. The court noted that there is a long line of precedent that Internet subscribers can have no expectation of privacy with regard to their subscriber information since they must willingly provide such to their ISP before they can get service.

Ultimately, the court denied all four motions to quash. John Doe's identity was subsequently disclosed, which left the ISPs free to pursue individual infringement actions against all four defendants if they so choose.

—Michael Gross

Legal Services Scorecard

From July 10, 2010 through February 1, 2011, the Authors Guild Legal Service Department handled 660 legal inquiries. Included were:

- 75 book contract reviews
- 19 agency contract reviews
- 30 reversion of rights inquiries
- 74 inquiries on copyright law, including infringement, registration, duration and fair use
- 27 inquiries regarding securing permissions and privacy releases
- 94 electronic rights inquiries
- 6 First Amendment inquiries
- 335 other inquiries (including literary estates, contract disputes, periodical and multimedia contracts, movie and television options, Internet piracy, liability insurance, finding an agent, and attorney referrals)

Donor Beware

Continued from page 12

local post office on Cape Cod by overnight mail and was surprised to receive an e-mail from him the next afternoon. "I can certainly understand your reaction to having it suggested that a very substantial portion of your archives, which you gave to the Library in the early 1990s, be returned to you," he wrote. "And I apologize for the distress that this has undoubtedly caused you to suffer.

"If you would consider having a conversation between the two of us," he added, "—at your convenience and on Cape Cod if you like—before any decision is made about the archive, that is something I would very much appreciate. I've admired your work for years and hope that you will accept to meet with me to talk through this further."

That same day, I sent an e-mail to LeClerc thanking him for his invitation and telling him I would be pleased to meet with him either on Cape Cod if he was planning to visit during the summer or when I next came down to New York City. He replied that he was not planning to visit the Cape but would make a special trip if I so desired. During the next few days, I considered LeClerc's offer in two lights. On the one hand, I had no doubt of its sincerity. On the other hand, it seemed strange to me that high officials—in this case, LeClerc and Steele—of an institution esteemed throughout the world as a repository for the written word should be so loathe to use it, and would seek to resolve the issue at hand through talk and conversation instead. For this reason, I decided to pursue the matter the way it had begun—in the epistolary form.

On July 4, I again wrote LeClerc, telling him that when I retired from *The New Yorker* in 1996 it gave me pleasure to look down upon Bryant Park from my office on 42nd Street and know that the papers relating to my 38-year career at the magazine resided in the Stack Extension below ground. I wrote that he was "right to assume that the Draconian deletions made from my donation to the Library . . . have caused me distress," and went on to say, "It would appear that the Library has instituted a policy allowing continued reprocessing of a donor's papers according to the dictates of a succeeding curator, who is free to depart from the precedent set by a predecessor (in my case Curator Mimi Bowling) and to do so in drastic fashion and without any notice given to the donor either before his or her gift is bestowed or the deletions made."

I also reminded LeClerc that Bowling and her su-

periors had judged my papers to be worth retaining and to have been satisfactorily processed and shelved in the Bryant Park Stack Extension at the time I saw them in 1997. I proposed that my collection be restored to the state Bowling described, and that my attorney and a representative of the Library draw up a letter of agreement defining the conditions under which it would remain in the Library's Manuscripts and Archives Division. In closing, I said I hoped he would agree that this proposal might "constitute an equitable solution to the problem that has arisen."

When a month had passed without reply, I wrote LeClerc another letter, telling him that I was disappointed not to have heard from him, and that it had become difficult for me to have confidence in the Library's stewardship of my papers. With regard to the Library's policy allowing continued reprocessing of a donor's papers by succeeding curators, I wrote, "I truly doubt that any present or prospective donor would regard such a policy as being in his or her best interest." I concluded the letter by requesting that if his response to the proposal in my letter of July 4 was negative, he have one of his representatives contact me about the return of my entire collection.

As it happened, LeClerc had written in reply to my letter of July 4 on August 4, the same day I wrote and sent my final letter to him. His letter had all the earmarks of having been dictated by the Library's legal staff, which probably accounted for the month-long delay. LeClerc apologized "for any miscommunications that may have been made by current or former staff of the Library." The second paragraph was surprising, to say the least, because it impugned Mimi Bowling's grasp of how the Library's Manuscript and Archives Division functioned, her professional good sense, and, in light of her e-mails to me of May 31 and June 12, her probity. "When Ms. Bowling showed you the collection at the Library, it appears that she did not make it clear that it had not yet been processed," LeClerc wrote. "That seems, unfortunately, to have contributed to the impression that the collection had gone through our archival processing procedures and that it would be retained in its entirety."

Before Ms. Bowling became Charles J. Liebman Curator of Manuscripts at the New York Public Library, she served for 10 years as the Reference Librarian for Manuscripts at Columbia University, followed by five years as Archivist and Supervisory Museum Curator at the Edison National Historic Site, which is part of the Department of Interior's National Park Service. After her 13-year tenure at the NYPL, she became Director of Archives at Random House. To suggest that a curator and archivist of her experience did not know what she was doing in her job, and to try

to make her a scapegoat for a situation that the President and Chief Executive Officer of the Library seemed anxious to resolve by offering to travel from New York City to Cape Cod in order “to talk through this further,” seems deliberately disingenuous.

Whatever the case, the input of the Library’s legal staff became additionally apparent in the fifth paragraph of LeClerc’s letter: “The Deed of Gift you signed on March 21, 1993 (copy enclosed) is clear and unambiguous in the Library’s view and is not subject to renegotiation.” (Paragraph 6. of the Deed of Gift de-

Donors would be well advised to dictate the terms of a donation agreement with the assistance of an attorney, in order to protect the integrity of the donation in the years to come.

clared that, “The Library reserves the right to return to Donor any item that it does not choose to retain in the Papers,” and that “If Donor (or, if Donor is deceased, Donor’s estate) declines to accept such items, the Library may dispose of the same as the Library determines in its sole discretion.”)

LeClerc offered to hold the material the Library had decided not to retain for my review, but for no longer than a year from the date of the letter. He also suggested that if my attorney wished to discuss the matter, he should contact the Library’s Deputy General Counsel. Having handed me my head on a legally engraved platter, and indicated that the Library would play dog-in-the-manger with my papers, he concluded by assuring me that “I look forward to meeting you in person, not only to explain in greater detail the Library’s policies and procedures but also to have a

chance to converse with a journalist whose work I greatly admire.”

In retrospect, it seems clear that I should not have donated my papers to an institution whose lust for acquisition places previous gifts at risk of drastic deletion, and whose highest official apparently thinks nothing of making the Orwellian claim that the Library’s former Curator of Manuscripts did not make it clear that my collection of papers had not yet been processed when she showed it to me 13 years ago, even though he had been sent two e-mails written by her a few weeks earlier—the first stating that she considered my papers to have been “satisfactorily processed and shelved in the Bryant Park Stack Extension, where you saw them,” the second declaring that she considered them to have been “fully processed during my tenure.”

In September, I wrote Ms. Bowling to bring her up to date on what had transpired between the Library and me during the summer. She replied in a letter dated September 29, in which she said that she wished to comment on the portion of LeClerc’s letter of August 4, “implying that I knew but did not tell you that the collection that I showed you in 1997 was not processed. That, as you and I both know, is simply not true: the collection was, in fact, processed.”

At this point, I have come to the conclusion that I should have given my papers to an environmental organization, a school of journalism, or a small university—any of which might have been more appreciative of them than The New York Public Library. However, that is water over the dam. The fact is that anyone signing the Deed of Gift to The New York Public Library (or a similar deed of gift to any institution) should consider the possibility that future curators may undo assurances made at the time of donation by their predecessors. Rather than place one’s trust in such institutional assurances, donors would be well advised to dictate the terms of a donation agreement with the assistance of an attorney, in order to protect the integrity of the donation in the years to come. Otherwise, five, ten, 18 (as in my case) or 30 years down the road, one—or one’s heirs—risks receiving the kind of letter Curator Stingone wrote me on April 23, 2010. ♦

Won't Work for Hire

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"There are very few sites that seem to consider content of value beyond the traffic it gets that day, which makes it hard to feel that there's a point to even caring about your contract," she said. "Everything is so ephemeral on the Internet, it's almost an afterthought who has the rights to what you write." Frequently, Tkacik doesn't even receive contracts for Web work or, if she does, doesn't read them as carefully as she would for a print contract.

Still, it hasn't prevented magazines or anthologies from trying to take advantage of her. A story she wrote for a print magazine about Hurricane Katrina—at no fee beyond her expenses—was, against contractual stipulations, used in a collection put out by the magazine without payment to her. When the original contract—for an 11,000-word chapter she contributed to a forthcoming book for a "not enormous" amount of money (because "it was flattering to even be asked," she says)—granted all rights to the publisher, she asked to have it amended and won. "I felt a little sheepish asking, since I'm not exactly Susan Sontag, but when I expend that many words on something I try to delude myself into thinking it might 'hold up,' and they were very accommodating."

It's not easy in this moribund freelance climate to ask for more. But you never know when something you wrote will be reprinted or catch the eye of a producer in Hollywood—and whether that producer is scrupulous or not. Even if you don't think of yourself as a future Susan Sontag, it's time to start reviewing, and renegotiating, contracts like one. ♦

Contracts Q&A

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any portion of the Work available online or via any other electronic, digital or other means permitted by this Agreement, including without limitation as a result of any hyperlinks (or like connections) from any part of the Work to another site, person or entity. To the extent that the percentage payable to Author for any such use is not specified in this Agreement, the parties agree to negotiate in good faith the percentage of such revenue to which Author is entitled. The parties acknowledge that this percentage shall not be less than 10 percent, nor greater than 50 percent, of the gross amount payable to Publisher therefor. Publisher shall state this gross amount (divided among such categories as Publisher shall consider reasonable) for each accounting period as a separate item on the statement of account for such period."

There are likely better clauses to use for this purpose. I include this example to make sure that you and your agent are dealing with this issue. If you have other clauses that you think cover this situation effectively, please send them to me at the address below. I'll publish a selection in a future column.

E-mail questions to Q&AColumn@authorsguild.org. Questions are often edited for readability or to make them more broadly applicable.

The answers in this column are general in nature only and may not include exceptions to a general rule or take into account related facts that may result in a different answer. You should consult a lawyer for information about a particular situation. No question submitted, or answer provided, creates an attorney-client relationship with the column's author. ♦

AG Member Survey

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format. Also valued by a high number of respondents: ease of purchase (70 percent) and price (55 percent).

"No need for physical storage," is an attractive feature of e-books to 70 percent of the authors surveyed, a result no surprise that should resonate with all too readers who've come to confront the realization that they needed to either buy fewer books or move to a bigger house.

Print is Better Because . . .

Authors were also asked to respond to the statement: "The advantages of print over e-books that are significant to me as a reader include."

Criteria Factors that sparked a high percentage of authors to agree or strongly agree with the statement included: "wider availability of titles" (63 percent), "better display of images, charts, etc" (67 percent) and "ability to lend" (65 percent).

"Physical presence in hands or bookshelf," was identified as a perk of print by 69 percent, a result that should resonate with all readers who've confronted the realization faced the fact that they needed to either buy fewer books or move to a bigger house—and chose to move.

Where We Buy—and Why

Regardless of format, more authors reported shopping at Amazon than at any other retailer. Almost as many said they'd made purchases from indie booksellers, including those who specialize in used books.

Percentage of authors who bought books at these outlets during the previous three months

Amazon.com	31.8%
Independent bookstores	19.7%
Barnes & Noble	16.6%
Other	9.4%
Used bookstores	8.8%
Borders	8.2%
BN.com	4.6%
Books-A-Million	0.9%

Asked how they decide which books to buy, 73 percent said a printed review had significantly influenced their selections during the past three months. "Discovery in a bookstore" led 71 percent of respondents to buy a title, while 70 percent said they'd been motivated by recommendations from friends and colleagues.

A third admitted to judging books by their covers, citing "attractive cover design" as an influence. Relatively few—less than 25 percent—reported being swayed by blogs or advertising.

The top two reasons for buying a book? Profession and passion. A roughly equal number—just over 86 percent—said they had made a purchase to do "research for my own writing." An equal percent and for, simply cited, "love of books."

About the survey

The Authors Guild E-book Survey was conducted online in late 2010. It drew responses from 2185 members, 95 percent of which completed the survey. All but 2 percent of the authors have had at least one book published; 32 percent have published 10 or more titles. Forty-three percent of the respondents write novels or nonfiction books for adults. The rest have published short stories, books for children or young adults, poetry and freelance articles. ♦

BOOKS BY MEMBERS

Maha Addasi: *Time to Pray*; **David A. Adler** (and Michael S. Adler; Marie Olofsdotter, illus.): *A Picture Book of Cesar Chavez*; **Janet Reed Ahearn** (Drazen Kozjan, illus.): *Don't Call Me Pruneface!*; **Daniel Akst:** *We Have Met the Enemy: Self-Control in an Age of Excess*; **Elisa Albert** (Ed.): *Freud's Blind Spot: Writers on Siblings*; **Arlene Alda**, and **Lisa Desimini**, illus.: *Lulu's Piano Lesson*; **Bevin Alexander:** *Inside the Nazi War Machine: How Three Generals Unleashed Hitler's Blitzkrieg upon the World*; **Thomas B. Allen:** *Tories: Fighting for the King in America's First Civil War*; **Laurie Halse Anderson:** *Forge*; **Susannah Appelbaum** (Jennifer Taylor, illus.): *The Tasters Guild*; **P.M.H. Atwater:** *I Died Three Times in 1977: The Complete Story*;

Patricia Baehr (Margot Apple, illus.): *Boo Cow*; **Margaret Bald:** *From the Sahara to Samarkand: Selected Travel Writings of Rosita Forbes, 1919–1937*; **Helen Barolini:** *Crossing the Alps*; **Tracy Barrett:** *The Case That Time Forgot: King of Ithaka*; **Mira Bartók:** *The Memory Palace*; **Ruth Bass:** *Rose*; **Gal Beckerman:** *When They Come for Us, We'll Be Gone*; **Lauren Belfer:** *A Fierce Radiance*; **Sheryll Bellman:** *America's Little Italys: Recipes and Traditions from Coast to Coast*; **Robin Benway:** *The Extraordinary Secrets of April, May & June*; **Marianne Berkes:** *Going Home: The Mystery of Animal Migration*; **Carmen T. Bernier-Grand** (Thomas Gonzalez, illus.): *Sonia Sotomayor: Supreme Court Justice*; **Tom Birdseye:** *Storm Mountain*; **Francesca Lia Block:** *The Frenzy*; **Lisa Bork:** *For Richer, For Danger*; **Fred Bowen:** *Throwing Heat: A Fred Bowen Sports Story*; **Barbara Taylor Bradford:** *Playing the Game*; **Joan Brady:** *Venom*; **Terry Brooks:** *Bearers of the Black Staff: Legends of Shannara*; **Jared M. Brown:** *Spiritous Journey: A History of Drink*; **Josie Brown:** *Secret Lives of Husbands and Wives*; **Sandra Brown:** *Tough Customer*; **Tami Lewis Brown** (François Roca, illus.): *Soar, Elinor!*; **Diane Browning:** *Signed, Abiah Rose*; **Bernd Brunner:** *Moon: A*

Brief History; **Kate Buford:** *Native American Son: The Life and Sporting Legend of Jim Thorpe*; **Carol A. Butler** (and Peter Capainolo): *How Fast Can a Falcon Dive?*; **Lewis Buzbee** (Greg Ruth, illus.): *The Haunting of Charles Dickens*;

Julia Cameron: *The Creative Life: True Tales of Inspiration*; **Kathryn Casey:** *The Killing Storm*; **Carol Wiley Cassella:** *Healer*; **Dick Cavett:** *Talk Show: Confrontations, Pointed Commentary, and Offscreen Secrets*; **John Cech** (Fiona Samson, illus.): *Rapunzel* (Adapt.); **C. S. Challinor:** *Murder on the Moor*; *Pink Champagne on Ice*; **Robert Chambers:** *Parody: The Art That Plays with Art*; **Henry Change:** *Red Jade*; **Marcia Chellis:** *The Girls from Winnetka*; *Ordinary Women, Extraordinary Lives*; **Eileen Christelow:** *The Desperate Dog Writes Again*; **Margaret Coel:** *The Spider's Web*; **Caron Lee Cohen** (Sergio Ruzier, illus.): *Broom, Zoom!*; **Rachel Cohn** (and David Levithan): *Dash & Lily's Book of Dares*; **Pat Lowery Collins:** *Daughter of Winter*; **Kathleen Conkey:** *Counseling Content Providers in the Digital Age: A Handbook for Lawyers, Authors & Producers*; **Judy Cox** (Amanda Haley, illus.): *Nora and the Texas Terror*; **Kelly Creagh:** *Nevermore*; **Bill Crider:** *Murder in the Air*; **Priscilla Cummings:** *Blindsided*; **Michael Cunningham:** *By Nightfall*;

Robert Dallek: *The Lost Peace: Leadership in a Time of Horror and Hope, 1945–1953*; **Sharon Darrow** (and Linda Pettitt; Jan Spivey Gilchrist, illus.): *Yafi's Family: An Ethiopian Boy's Journey of Love, Loss, and Adoption*; **Idelle Davidson** (and Dan Silverman): *Your Brain After Chemo: A Practical Guide to Lifting the Fog and Getting Back Your Focus*; **Nancy Raines Day** (George Bates, illus.): *On a Windy Night*; **Marshall De Bruhl:** *The River Sea: The Amazon in History, Myth, and Legend*; **Joan Del Fattore:** *Knowledge in the Making: Academic Freedom and Free Speech in America's Schools and Universities*; **Dyan deNapoli:** *The Great Penguin Rescue: 40,000 Penguins, a*

Devastating Oil Spill and the Inspiring Story of the World's Largest Animal Rescue; **Eric Jerome Dickey:** *Tempted by Trouble*; **John DiLeo:** *Tennessee Williams and Company: His Essential Screen Actors*; **Jan Donley:** *The Side Door*; **Philip Dray:** *There Is Power in a Union: The Epic Story of Labor in America*; **Adam Dunn:** *Rivers of Gold*; **Olivier Dunrea:** *Old Bear and His Cub*; **Patrick Durantou:** *Poemes dans le Temps*;

Michelle Edwards (Kathryn Mitter, illus.): *The Hanukkah Tree*; **Dave Eggers** (Ed.): *The Best American Nonrequired Reading 2010*; **Robert Elias:** *The Empire Strikes Out: How Baseball Sold U.S. Foreign Policy and Promoted the American Way Abroad*; **Katherine Ellison:** *Buzz: A Year of Paying Attention*; **Charles Harrington Elster:** *The Accidents of Style: Good Advice on How Not to Write Badly*; **Susan Middleton Elya** (Melissa Sweet, illus.): *Rubia and the Three Osos*; **Ed Emberley** (and Rebecca Emberley): *If You're a Monster And You Know It; The Red Hen*; **Dotti Enderle:** *Crosswire*; **Nora Ephron:** *I Remember Nothing: And Other Reflections*;

Claire R. Farrer: *Thunder Rides a Black Horse*; **Pamela Ellen Ferguson** (Christian Slade, illus.): *Sunshine Picklelime*; **David Fisher** (and Sanjiv Chopra and Alan Lotvin): *Doctor Chopra Says: Medical Facts and Myths Everyone Should Know*; **Terry L. Fitzwater:** *Yucca Mountain Conspiracy*; **Alexa Fleckenstein:** *Sebastian Kneipp, Water Doctor*; **Susan Fletcher:** *Ancient, Strange, and Lovely*; **Dennis Foley:** *A Requiem for Crows*; **Ken Follett:** *Fall of Giants*; **Mary Ann Fraser:** *Pet Shop Follies*; **Ian Frazier:** *Travels in Siberia*; **Russell Freedman:** *Lafayette and the American Revolution; The War to End All Wars: World War I*; **Patty Friedmann:** *Taken Away; Too Jewish*; **Laura Furman:** *The Mother Who Stayed*;

W. D. Gagliani: *Wolf's Bluff*; **Yasmine Galenorn:** *Harvest Hunting; Night Myst*; **Carolina Garcia-Aguilera:** *Bloody Twist*; **Holly George-Warren:** *The Cowgirl Way: Hats Off to America's Women of the West*; **Patricia Reilly Giff**

(Alasdair Bright, illus.): *Number One Kid*; **Debra Ginsberg**: *The Neighbors Are Watching*; **Julia Glass**: *The Widow's Tale*; **Timothy Glass**: *Sleepytown Beagles: The Lemonade Stand*; **Philip Goldberg**: *American Veda: From Emerson and the Beatles to Yoga and Meditation—How Indian Spirituality Changed the West*; **Chris Grabenstein**: *The Smoky Corridor*; **Rita Gray** (Ed.; Ryan O'Rourke, illus.): *One Big Rain: Poems for Rainy Days*; **George W. Green**: *Flying Cars, Amphibious Vehicles and Other Dual Mode Transport: An Illustrated Worldwide History*; **Kitty Griffin**: *The Ride: The Legend of Betsy Dowdy*; **Nikki Grimes** (R. Gregory Christie, illus.): *Almost Zero*; **Kim Johnson Gross**: *What to Wear for the Rest of Your Life*; **Sara Gruen**: *Ape House*;

Andrew Hacker (and Claudia Dreifus): *Higher Education?: How Colleges Are Wasting Our Money and Failing Our Kids—and What We Can Do About It*; **R. Z. Halleson** (and Chhalith Ou): *Spare Them? No Profit. Remove Them? No Loss.*; **Timothy Hallinan**: *The Queen of Patpong*; **Diane Hamilton, PhD**: *The Online Student's User Manual: Everything You Need to Know to Be a Successful Online College Student*; **Joan Hiatt Harlow**: *Firestorm!*; **Carolyn Hart**: *Ghost in Trouble*; **Ken Harvey**: *A Passionate Engagement: A Memoir*; **Chad Hautmann**: *Magic & Grace*; **Florence Parry Heide** (and Roxanne Heide Pierce; Kyle M. Stone, illus.): *Always Listen to Your Mother; Dillweed's Revenge: A Deadly Dose of Magic*; **Jennie Miller Helderman**: *As the Sycamore Grows*; **Steve Hendricks**: *A Kidnapping in Milan: The CIA on Trial*; **Ann Herendeen**: *Pride/Prejudice*; **Mark Hertsgaard**: *Hot: Living Through the Next Fifty Years on Earth*; **Carl Hiaasen**: *Star Island*; **Homer Hickam**: *The Dinosaur Hunter*; **Neal Hirschfeld** (and Louis Diaz): *Dancing with the Devil: The True Story of an Undercover Agent's War on Crime*; **Phoebe Hoban**: *Alice Neel: The Art of Not Sitting Pretty*; **Nancy Holder** (and Debbie Viguié): *Crusade*; **James D. Hornfischer**: *Nep-tune's Inferno: The U.S. Navy at Guadalcanal*; **Joan Hall Hovey**: *Chill Waters*;

Listen to the Shadows; Nowhere to Hide; **Mark Peter Hughes**: *A Crack in the Sky*;

Anne Isaacs, and **Paul O. Zelinsky**, illus.: *Dust Devil*; **Sheila Isenberg**: *Muriel's War: An American Heiress in the Nazi Resistance*; **Allan Ishac** (and Cari Jackson): *The Guide to Odd New York: Unusual Places, Weird Attractions and the City's Most Curious Sights*; **Charlotte Isler**: *John's Magic Rescue*;

Carolyn Jewel: *My Dangerous Pleasure; My Immortal Assassin*; **Rebecca L. Johnson**: *Journey into the Deep: Discovering New Ocean Creatures*; **Steven Johnson**: *Where Good Ideas Come from: The Natural History of Innovation*; **Ann Jones**: *War Is Not Over When It's Over: Women Speak Out from the Ruins of War*; **Sandra Jordan** (and Jan Greenberg; **Brian Floca**, illus.): *Ballet for Martha: Making Appalachian Spring*; **Jacqueline Jules** (Natascia Ugliano, illus.): *Miriam in the Desert*; **Norton Juster**, and **Jules Feiffer**, illus.: *The Odious Ogre*;

Daphne Kalotay: *Russian Winter*; **Stefan Kanfer**: *Tough Without a Gun: The Life and Extraordinary Afterlife of Humphrey Bogart*; **Robert D. Kaplan**: *Monsoon: The Indian Ocean and the Future of American Power*; **Jon Katz**: *Rose in a Storm*; **Peg Kehret**: *Ghost Dog Secrets*; **Kim Kennedy**: *Misty Gordon and the Mystery of the Ghost Pirates*; **Helen Kettelman** (Bonnie Leick, illus.): *Goodnight, Little Monster*; **Eric A. Kimmel** (Valeria Docampo, illus.): *Medio Pollito: A Spanish Tale*; **Eric A. Kimmel** (Katya Krenina, illus.): *The Spider's Gift: A Ukrainian Christmas Story*; **Stephen King**: *Full Dark, No Stars*; **Charles Kipps**: *Crystal Death*; **Laurence Klavan** (and Susan Kim; Faith Erin Kicks, illus.): *Brain Camp*; **Mirka Knaster**: *Living This Life Fully: Stories and Teachings of Munindra*; **Gordon Korman**: *Framed*; **William Kuhn**: *Reading Jackie: Her Autobiography in Books*;

A. J. Langguth: *Driven West: Andrew Jackson's Trail of Tears to the Civil War*; **Terese Lawinski**: *Living on the Edge in Suburbia: From Welfare to Workfare*; **Ann Haywood Leal**: *A Finders-Keepers*

Place; **James Lecesne**: *Virgin Territory*; **Janet Lembke**: *Harvests*; **Michael Lent**: *On Thin Ice*; **Elmore Leonard**: *Comfort to the Enemy: And Other Carl Webster Stories*; **Djibouti**; **Elizabeth Levy** (Mordicai Gerstein, illus.): *Danger & Diamonds: A Mystery at Sea*; **Sophie Littlefield**: *Banished*; **Sarah Darer Littman**: *Life, After*; **Suzanne Loebl**: *America's Medicis: The Rockefeller's and Their Astonishing Cultural Legacy*; **Li Miao Lovett**: *In the Lap of the Gods*; **Mike Lupica**: *Hero*; **Barry Lyga**: *Archvillain*; **Dick Lyles**: *Achieve Leadership Genius*; *Pearls of Perspicacity*; **David Madden**: *Abducted by Circumstance*; **Gregory Maguire**: *The Next Queen of Heaven*; **Ann Malaspina** (Susan Keeter, illus.): *Phillis Sings Out Freedom: The Story of George Washington and Phillis Wheatley*; **Kenneth Mallory** (Brian Skerry, photog.): *Adventure Beneath the Sea*; **Leslie Margolis**: *Girl's Best Friend: A Maggie Brooklyn Mystery*; **Margaret Maron**: *Christmas Mourning*; **Jacqueline Briggs Martin** (Linda S. Wingerter, illus.): *The Chiru of High Tibet: A True Story*; **Kat Martin**: *The Devil's Necklace: The Handmaiden's Necklace*; **Wendy Mass**: *The Candy-makers*; **Jeffrey Moussaieff Masson**: *The Dog Who Couldn't Stop Loving: How Dogs Have Captured Our Hearts for Thousands of Years*; **Joseph Mazur**: *What's Luck Got to Do With It? The History, Mathematics and Psychology of the Gambler's Illusion*; **Anne McCaffrey** (and Elizabeth Ann Scarborough): *Catacombs*; **Matthew McElligott**: *Even Monsters Need Haircuts*; **Matthew McElligott** (and Larry Tuxbury): *Benjamin Franklinshtein Lives!*; **Stacey McGlynn**: *Keeping Time*; **Robin McKinley**: *Pegasus*; **Patrick F. McManus**: *The Huckleberry Murders*; **Terry McMillan**: *Getting to Happy*; **Kate McMullan** (R. W. Alley, illus.): *Four Eyes: Pearl and Wagner*; **Kate McMullan** (Jim McMullan, illus.): *I'm Big!*; **Laura Krauss Melmed** (Elisabeth Schlossberg, illus.): *Eight Winter Nights: A Family Hanukkah Book*; **Doug Merlino**: *The Hustle: One Team and Ten Lives in Black and White*; **David Milgrim**: *Santa Duck and His Merry Helpers*; **Kirsten Miller**: *The Eternal Ones*; **Pat Miller**

(Kathi Ember, illus.): *Squirrel's New Year's Resolution*; **Claudia Mills**: *One Square Inch*; **Stephanie Mills**: *On Gandhi's Path: Bob Swann's Work for Peace and Community Economics*; **Lisa Moser** (Ben Mantle, illus.): *Perfect Soup*; **Walter Mosley**: *The Last Days of Ptolemy Grey*; **Shirley Rousseau Murphy**: *Cat Coming Home*; **Mark T. Mustian**: *The Gendarme*;

David Nather (and Tom Daschle): *Getting It Done: How Obama and Congress Finally Broke the Stalemate to Make Way for Health Care Reform*; **Sharon Naylor**: *Bridesmaid on a Budget: How to Be a Brilliant Bridesmaid Without Breaking the Bank*;

Barbara O'Connor: *The Fantastic Secret of Owen Jester*; **Stephen O'Connor**: *Here Comes Another Lesson: Stories*; **Roxane Orgill** (Sean Qualls, illus.): *Skit-Scat Raggedy Cat: Ella Fitzgerald*; **Jordan Orlando** (and Barnabas Miller): *7 Souls*;

Sara Paretsky: *Body Work*; **Richard Peck**: *Three Quarters Dead*; **Kathleen T. Pelley**: *Magnus Maximus: A Marvelous Measurer*; **Nick Perry** (and Ken Armstrong): *Scoreboard, Baby: A Story of College Football, Crime, and Complicity*; **Marilyn Pincus**: *Get the Job! Interview Strategies That Work*; **Dan Poblocki**: *Nightmares*; **Linda Porter**: *Katherine the Queen: The Remarkable Life of Katherine Parr, the Last Wife of Henry VIII*; **Robin Pulver** (Layne Johnson, illus.): *Christmas Kitten, Home at Last*; **Robin Pulver** (Stephanie Roth Sisson, illus.): *Thank You, Miss Doover*;

Naomi Ragen: *The Tenth Song*; **David Rakoff**: *Half Empty*; **Doreen Rappaport** (Matt Tavares, illus.): *Jack's Path of Courage: The Life of John F. Kennedy*; **Chris Raschka**: *Little Black Crow*; **Michael Rattee**: *Falling Off the Bicycle Forever*; **Megan Rellahan** (and Howard G. Groshell): *East Meets West from the Bottom Up*; **Betty Reynolds**: *An Artist's Journey to Bali: The Island of Art, Music & Mystery*; *Japanese Celebrations: Cherry Blossoms, Lanterns and Stars!*; **Lori Ries** (Frank W. Dormer, illus.):

Aggie the Brave; **Cynthia Riggs**: *Touch-Me-Not*; **A. E. Roman**: *The Superman Project*; **Phyllis Root** (Betsy Bowen, illus.): *Big Belching Bog*; **William Rosen**: *The Most Powerful Idea in the World: A Story of Steam, Industry, and Invention*; **David Rosenfelt**: *Dog Tags*; **Karen Rostoker-Gruber**: *Tea Time*; **Hazel Rowley**: *Franklin and Eleanor: An Extraordinary Marriage*; **Albert Russo**: *China Forever/La Chine Eternelle*; *Mermaids of the Baltic Sea*; *Senegal Live*;

Mo Saidi: *The Color of Faith*; **Kate Scannell**: *Flood Stage: A Novel*; **William S. Schaill**: *The Admiral on Trial*; **Duane Schultz**: *Custer*; **Elisabeth Schuman**: *The Sound of a Wild Snail Eating*; **Michael Schuman**: *Adam Sandler: Celebrity with Heart*; *Angelina Jolie: Celebrity with Heart*; **Vicky Alvear Shecter**: *Cleopatra Rules!: The Amazing Life of the Original Teen Queen*; **Michael W. Sherer**: *Death on a Budget*; **Anita Shreve**: *Rescue*; **Polly Shulman**: *The Grimm Legacy*; **Judy Sierra** (J. Otto Seibold, illus.): *Tell the Truth, B. B. Wolf*; **Mike Silver**: *The Arc of Boxing: The Rise and Decline of the Sweet Science*; **Kenneth Silverman**: *Begin Again: A Biography of John Cage*; **Anita Silvey** (Wendell Minor, illus.): *Henry Knox: Bookseller, Soldier, Patriot*; **Seymour Simon**: *Tropical Rainforests*; **Jane Smiley**: *The Man Who Invented the Computer: The Biography of John Atanasoff, Digital Pioneer*; **Jane Smiley** (Elaine Clayton, illus.): *A Good Horse*; **Donald J. Sobol** (James Bernardin, illus.): *Encyclopedia Brown and the Case of the Secret UFOs*; **Jennifer Solow**: *The Aristobrats*; **Eileen Spinelli** (Vincent Nguyen, illus.): *Buzz*; **Eileen Spinelli** (Geraldo Valério, illus.): *Do You Have a Cat?*; **Donald Spoto**: *Possessed: The Life of Joan Crawford*; **Diane Stanley**: *Saving Sky*; **Mary Helen Stefaniak**: *The Cailiffs of Baghdad, Georgia*; **David Ezra Stein**: *Interrupting Chicken*; **Avi Steinberg**: *Running the Books: The Adventures of an Accidental Prison Librarian*; **Steven L. Stern**: *Witchcraft in Salem*; **R. L. Stine** (Ed.): *Fear: 13 Stories of Suspense and Horror*; **Tanya Lee Stone**: *The*

Good, the Bad, and the Barbie: A Doll's History and Her Impact On Us;

Nancy Tafuri: *Five Little Chicks Classic Board Book Series*; **William G. Tapply**: *Outwitting Trolls*; **Patrick Taylor**: *An Irish Country Courtship*; **Larry D. Thompson**: *The Trial*; **Susan J. Tolchin** (and Martin Tolchin): *Pinstripe Patronage: Political Favoritism from the Clubhouse to the White House and Beyond*; **Michele Torrey** (Barbara Johansen Newman, illus.): *The Case of the Crooked Carnival*; *The Case of the Terrible T. Rex*; **Kristin O'Donnell Tubb**: *Selling Hope*; **Pamela S. Turner** (Scott Tuason, photog.): *Project Seahorse*; **Frederic Tuten**: *Self Portraits: Fiction*;

Mary Volmer: *Crown of Dust*;

Wendy Walker: *Blue Fire*; **Carol Wallace** (Steve Björkman, illus.): *The Pumpkin Mystery*; **Katharine Weber**: *True Confections*; **Mary-Lou Weisman** (Al Jaffee, illus.): *Al Jaffee's Mad Life*; **Rosemary Wells** (Bagram Ibatoulline, illus.): *On the Blue Comet*; **Rosemary Wells** (and Secundino Fernandez; Peter Ferguson, illus.): *My Havana: Memories of a Cuban Boyhood*; **Rosemary Wells**: *Max & Ruby's Bedtime Book*; *Yoko's Show-and-Tell*; **Ted West**: *Closing Speed*; **Scott Westerfeld** (Keith Thompson, illus.): *Behemoth*; **Barbara Harris Whitfield**: *Victim to Survivor and Thriver: Carole's Story*; **Ben H. Winters**: *The Secret Life of Ms. Finkleman*; **Kathleen C. Winters**: *Amelia Earhart: The Turbulent Life of an American Icon*; **Janet S. Wong** (Elizabeth Buttler, illus.): *Me and Rolly Maloo*; **Frances M. Wood**: *When Molly Was a Harvey Girl*; **Stuart Woods**: *Santa Fe Edge*; **Connie Nordhielm Woolridge**: *The Brave Escape of Edith Wharton*; **Arthur Wooten**: *On Picking Fruit*; **Nancy Means Wright**: *Midnight Fires: A Mystery with Mary Wollstonecraft*;

Xu Xi: *Habit of a Foreign Sky*;

Hyewon Yum: *There Are No Scary Wolves*;

Koren Zailckas: *Fury: A Memoir*; **Lizabeth Zindel**: *A Girl, A Ghost, and the Hollywood Hills* ♦

MEMBERS MAKE NEWS

PEN American Center announced the recipients of its 2010 Literary Awards. Winners included **Susan Choi**, who received the W. G. Sebald Award for a Fiction Writer in Mid-Career and \$10,000; **Theresa Rebeck**, who received the Laura Pels Foundation Award for an American Playwright in Mid-Career and \$7,500; **Marilyn Hacker**, who received the Voelcker Award for Poetry and \$5,000; and **Anne Carson**, who received the PEN Award for Poetry in Translation and \$3,000 for her translation from the Greek of *An Oresteia*. The winners and runners-up were honored at a ceremony in New York City on October 13.

The National Association of Science Writers awarded **Susan Cohen** a 2010 Science in Society Award, Book category, for *Normal at Any Cost: Tall Girls, Short Boys, and the Medical Industry's Quest to Manipulate Height* (coauthored with Christine Cosgrove). **J. Madeline Nash** received the Local or Regional Science Reporting Award for her article "Bring in the Cows," which appeared in *High Country News*. They each received a cash prize of \$2,500 and an award at a November 7 meeting, in New Haven, Conn. The awards honor the best in investigative or interpretive reporting about the sciences and their impact on society.

The nominees for the National Book Award included **Kathryn Erskine**, *Mockingbird*, and **Walter Dean Myers**, *Lockdown*, for Young People's Literature, and **Justin Spring**, *Secret Historian: The Life and Times of Samuel Steward*, for Nonfiction.

PEN Center USA announced the winners of its 2010 awards for writers living west of the Mississippi River. The winners included **Paul Fleischman**, *The Dunderheads*, for Children's/Young Adult Literature. Finalists included **Robert Boswell**, *The Heyday of the Insensitive Bastards*, Fiction; and **Dan Baum**, *Nine Lives: Death and Life in New Orleans*, and **Carol Sklenicka**, *Raymond Carver: A Writer's Life*, both in the Research Nonfiction category. The awards were presented at the 20th Annual Literary Awards Festival ("LitFest") in Los Angeles on November 17.

Women Writing the West announced the winners of the 2010 WILLA Literary Awards for books published in 2009. The recipients included **Linda Gordon**, *Dorothea Lange: A Life Beyond Limits*, Scholarly Nonfiction; **Linda Hasselstrom**, *No Place Like Home: Notes from a Western Life*, Creative Nonfiction; **Jane Kirkpatrick**, *A Flickering Light*, Original Softcover; and **Randall Platt**, *Hellie Jondoe*, Children's/Young Adult

Fiction & Nonfiction. The awards were presented at the annual conference in Arizona in October.

The Garden of Invention: Luther Burbank and the Business of Breeding Plants, by **Jane S. Smith**, received the 2010 Caroline Bancroft History Prize, which carries a cash award of \$3,000. (The book also received a Merit Award for its cover design from the Bookbinders' Guild of New York.) The award is sponsored by the Western History/Genealogy Department of the Denver Public Library for the best book on Colorado or Western American History published in the previous year. *Killing for Coal: America's Deadliest Labor War*, by **Thomas G. Andrews**, received the award in 2009.

The Society of Midland Authors held its 54th annual book awards banquet on May 11 in Chicago. **Christine Taylor-Butler**, *Sacred Mountain: Everest*, received first place in the Children's Fiction category. Award finalists included **Jane S. Smith**, *The Garden of Invention: Luther Burbank and the Business of Breeding Plants*, Biography; **Gloria Whelan**, *Waiting for the Owl's Call*, Children's Fiction; and **Marc J. Sheehan**, *Vengeful Hymns*, Poetry.

The Sound of a Wild Snail Eating, by **Elisabeth Tova Bailey**, was an Indie Next Pick for September.

Helen Barolini was honored for her distinguished career as an author at the Hudson Valley Writers' Center annual benefit gala in Sleepy Hollow, N.Y., on October 2.

Hester Bass received the 2010 Orbis Pictus Award for Outstanding Nonfiction for Children for *The Secret World of Walter Anderson* (illustrated by E.B. Lewis), presented by the National Council of Teachers of English. The book also received the 2010 award for Best Children's/YA Book of the Year from the Southern Independent Booksellers Alliance and was named a NCSS Notable Social Studies Trade Book for Young People and a Bank Street Best Children's Book. It was also included on the Cooperative Children's Book Center's Best-of-the-Year List, and is a nominee for the 2011 Magnolia Award for Mississippi Children's Choice. An exhibition based on the book is currently at the Walter Anderson Museum of Art in Ocean Springs, Miss.

Spiritous Journey: A History of Drink, Book One, by **Jared M. Brown** and Anistatia Renard Miller, received a 2010 Gourmand World Cookbook award for Best Drink History in the UK, and was on the shortlist for Best

Drink History in the World. *Spiritous Journey: A History of Drink, Book Two* received a Best Drinks Writing Award at the 2010 CLASS Awards, sponsored by CLASS magazine.

Paul Byall received the 2010 Thomas Wolfe Fiction Prize for his short story, "Sequestered." The prize, sponsored by the North Carolina Writers' Network, carries a cash prize of \$1,000 and possible publication in *The Thomas Wolfe Review*.

Mike Cox received the A.C. Greene Literary Award in honor of his body of work as an Austin-based author, journalist and historian. The award was presented at the 10th annual West Texas Book & Music Festival in Abilene on September 25 and was sponsored by the Friends of the Abilene Public Library and the *Abilene Reporter-News*.

Sue Eisenfeld was named a Goldfarb Family Fellow in Nonfiction by the Virginia Center for the Creative Arts. The fellowship lasts two weeks and is fully funded by the Robert and Aida Goldfarb Art Law Literary Fund.

Encyclopedia of Pasta, by Oretta Zanini de Vita, translated by **Maureen B. Fant**, received the James Beard award for translation. Fant also received a Distinguished Alumna Award from the Nightingale-Bamford School in New York.

Feminist Engagements: Forays into American Literature and Culture, by **Shelley Fisher Fishkin**, was named an Outstanding Academic Title by *Choice* magazine. Fishkin, who was named the Joseph S. Atha Professor of

Humanities by Stanford University in October, was also awarded the Mark Twain Circle of America's Certificate of Merit for long and distinguished service in the elucidation of the work, thought, life and art of Mark Twain.

Dirk Hanson received a bronze medal in the Health/Medicine/Nutrition category of the 2010 Independent Publisher Book Awards for *The Chemical Carousel: What Science Tells Us About Beating Addiction*.

Indiscreet, by **Carolyn Jewel**, received a Booksellers Best Award for Best Short Historical.

Unite or Die: How Thirteen States Became a Nation, by **Jacqueline Jules**, was awarded the 2010 Whitney & Scott Cardozo Award for Children's Literature by the Library of Virginia at a gala celebration on October 16, 2010. The award honors outstanding works of children's literature by authors in the mid-Atlantic region.

A short story by **Marjorie Kemper**, an Authors Guild member until her death last November, titled "Discovered America," received the 2009 McGinnis Ritchie Award from the *Southwest Review* for the best work of fiction published in the journal that year.

The Eight, by **Katherine Neville**, was named one of the top 100 thrillers of all time in a National Public Radio poll of readers, the Killer-Thriller Contest. *The Eight* came in at No. 38.

Blue Goose and Spots, Feathers and Curly Tails, by **Nancy Tafuri**, were chosen for the Kid's Reading Lists of the Oprah Book Club. ♦

BULLETIN BOARD

Bulletin Board announces upcoming contests and prizes in all genres, in addition to fellowships and residencies. Because of the great number, we provide only basic information here, and recommend readers visit the website of each journal or program to read the detailed entry guidelines. Dates provided are postmark deadlines unless otherwise noted.

Fellowships and Residencies

The Associates of the Boston Public Library support an annual children's writer-in-residence program. The application form will be posted on their website, theassociates.org, after January 1, 2011. The resident will receive a \$20,000 stipend, access to the library's special and circulating collections, use of an office space, computer, and copying and fax machines, and a forum for the presentation and promotion of finished work. The residency lasts from September 1, 2011 to June 1, 2012. Deadline: **April 1, 2011**. Visit theassociates.org after January 1 and click on the "2011-2012 WIR Application and Guidelines" option on the menu to the left. Contact: Betsy Hall, Executive Director, Associates of the Boston Public Library, 700 Boylston Street, Boston, MA 02116. (617) 536-3886; associates@bpl.org.

Multiple Genres

Crab Orchard Review holds three annual contests: the Richard Peterson Poetry Prize, the Jack Dyer Fiction Prize, and the John Guyon Literary Nonfiction Prize, each carrying a \$1,500 cash prize. Entry fee: \$10 per en-

try. Submission period: March 1 to **May 2, 2011**. Visit craborchardreview.siu.edu/dyer.html for submission guidelines. Contact: *Crab Orchard Review* Literary Contests (indicate genre), Department of English, Mail Code 4503, Southern Illinois University Carbondale, 1000 Faner Drive, Carbondale, IL 62901. (618) 453-6833; jtribble@siu.edu.

Fiction Contests

Leapfrog will offer its 2011 Fiction Contest, awarding a publication contract and advance to a fiction manuscript. Submissions may include literary and mainstream novels, novellas, and short story collections, of a minimum of 22,000 words. Entry fee: \$30. Submission period: January 15, 2011–**May 1, 2011**. Visit leapfrogpress.com for more information. Leapfrog Press, PO Box 2110, Teaticket, MA 02536. fictioncontest@leapfrogpress.com.

The Richard Sullivan Prize in Fiction will be awarded to an author who has published at least one volume of short fiction. The winning manuscript will be published in trade paperback format with a limited signed hardback edition, and the author will be offered a standard contract with the University of Notre Dame Press, along with a \$1,000 prize, a \$500 award, and a \$500 advance against royalties. Entry fee: \$15. Submission period: May 1 to **September 1, 2011**. Contact: Director of Creative Writing, Richard Sullivan Prize, Department of English, University of Notre Dame, Notre Dame, IN 46556-5639. creativewriting@nd.edu, nd.edu/~ndr/sandeen.html. ♦

My Father's Eyes

BY JAY NEUGEBOREN

In 1936, the year my father and mother married, my father suffered a detached retina and lost all sight in his right eye. His left eye was already severely compromised; without glasses, he could not read the large one and two-foot high numbers on advertisements in supermarket windows unless he pressed his nose right up to the glass. I was born two years later, in 1938, and throughout my childhood I'd often walk from room to room of our small four-room Brooklyn apartment while covering one eye with a piece of cardboard so that I could see the world as he saw it. At Halloween and other dress-up occasions, I always chose to be a pirate, a patch over my right eye.

When, at 11, I was a member of a Cub Scout pack, I earned an arrow point by demonstrating how, despite not being able to perceive distance, my father could score in basketball by calculating angles so that the ball would slam off the backboard and carom down through the hoop.

But why, with one good eye, couldn't he see in three dimensions?

My Cub Scout den chief drew a diagram and explained that, since our eyes were lodged asymmetrically in our heads (and were not equidistant from some central point), they each saw objects and scenes differently—with *binocular* (as opposed to *monocular*) vision. If you were looking at a ball, for example, your left eye would see the ball from a different distance, and angle, than your right eye did. Actually, he explained, each of your eyes was seeing a *different image* of the ball, which images were somehow combined instantaneously in the brain so as to enable those of us with *binocular* vision to see the ball—and the world—in three dimensions.

The great passion of my early years, along with reading novels, was sports: I lived as much of my life on ballfields and in local schoolyards as I could, and when I was 13, in the concrete backyard of our building, my father taught me how to throw a curveball. When I tried out for the baseball team at Erasmus Hall

High School—I was five foot three and weighed 110 pounds, facing guys older and bigger—I not only struck out the side twice in a row but attracted dozens of players to the chain-link backstop, and they seemed as amazed as I was that the ball could leave my hand, head for the batter's head or shoulder (if he were batting right-handed), and then, thanks to my father's coaching, dip swiftly and suddenly away from him in a two-to-three-foot arc, and cross the outside corner of the plate.

But how, I wondered, not being able to perceive distance, was my father able to throw and catch a ball? And how was he able to shoot baskets, or drive a car?

"In 1936 . . . my father lost all sight in his right eye . . . throughout my childhood I'd often walk from room to room of our small four-room Brooklyn apartment while covering one eye with a piece of cardboard so that I could see the world as he saw it."

And what would happen to him if he lost vision in his one good eye?

The summer I was six years old, my parents rented a two-room bungalow in Long Beach, NY. My father slept in our Brooklyn apartment during the week, and on Friday evenings took the train to Long Beach to be with us for the weekend. The first thing he'd do after he arrived would be to get out of his suit and tie and into a bathing suit, after which I'd walk to the beach with him. And all week long I'd hope it would be raining on Friday night, because when we got to the beach, he'd take off his shirt, then hand me his eyeglasses to hold for him while he went swimming in the ocean.

He never hesitated—just handed me the shirt and glasses, ran to the water, waded in, and dove straight into the first line of waves. He'd thrash his way out to where it was calmer, and then would swim further and further out while, his glasses tight in my fist, I'd stare as hard as I could—as if by concentrating with all my might I could keep him from going under—and I'd pray that he'd return quickly (by this hour the lifeguards were gone), for what would I do if, one evening, he disappeared, and I had to walk home alone? What would I tell my mother?

Most weekday nights, on his way home from work,

Jay Neugeboren has been a Guild member since his first novel, *Big Man*, was published in 1966. He is the author of 17 books, including award-winners in both fiction and nonfiction, along with three collections of prize-winning stories. His new collection of stories, *You Are My Heart*, will be published in the Spring of 2011.

he stopped at the local candy store where he'd take out a novel from their rental library, and he'd spend most evenings lying on the living room couch, reading, a hand cupped over his good eye to shield it from the glare of the lamp.

Through all the years of my growing up, my father worked in the printing business as what was called a "jobber": he had "accounts"—businesses and individuals who would place orders with him—for stationery, invoices, business cards, invitations—which orders (jobs) he'd take to various printing shops around the city to get the work done, after which he'd pick up and deliver the order (or, on school vacations, have me deliver them) to his customers. Sometimes, when I asked about his business, he'd show me how he prepared material for the printers—how he wrote out the words, and created columns, charts, and designs with a straight-edge ruler, a protractor and stencils—and I was always astonished at how neat and clear his handwriting was, and how graceful his script.

I remember wondering why it was that a man so compromised in his vision had chosen to spend so much of his life having to look at words on paper, but I never asked him about this. Later on, though, after I'd begun publishing books, I'd sometimes find myself attributing my own love for words and story—for how magical it was that words on a page, in my mind and feelings, could be transformed into entire worlds—to those times we were together in printing shops and factories, where what had been blank sheets of paper would fly out from the presses—across rows of small blue flames, positioned there to dry the ink—with words on them, words that in my life, as in my father's, were suffused with enormous power.

I recall, too, when I was in the fifth grade and we had a unit on people who, like Helen Keller, had overcome physical disabilities, going to the front of the room, and telling the class that my father was blind in one eye, yes, but that because he was, his hearing had improved miraculously and he could now hear things, especially music, better than most people.

Although what I told my class was largely a sentimental wish, it turns out that, neurologically, I may have been on to something, for we now understand that the nervous system has astonishing plasticity, and that when areas of our brain ordinarily used for one function—seeing, for example—are disabled for that function, that region of the brain can often be taken over—reallocated—for other sensory functions such as hearing.

At about the time I was trying out for my high school baseball team, Tommy Thompson, blinded in one eye when he was a child, was the starting quarterback on two Philadelphia Eagles championship NFL

football teams. A few years later, Bob Schloredt, a one-eyed quarterback for the University of Washington Huskies, was voted the Most Valuable Player in the Rose Bowl. I doted on athletes like these, who, despite handicaps, had succeeded: Whammy Douglas, a one-eyed pitcher for the Pittsburgh Pirates, Pete Gray, a one-armed outfielder for the St. Louis Browns, Gene "Silent" Hairston, a deaf Golden Gloves champion, and on others who, later on, would occasionally make their way into the ruminations of characters in my early stories and novels.

My father failed at the printing business, and it was my mother, a registered nurse, who, often working double shifts and taking on extra jobs, brought home

"My father worked in the printing business . . . I remember wondering why it was that a man so compromised in his vision had chosen to spend so much of his life having to look at words on paper, but I never asked him about this."

the money that paid the rent and put food on the table. Although they fought about money constantly—my mother railing at my father for not earning a living, and my father retreating into a depressed silence because he'd failed to provide for us, I never recall either of them, even in their most heated arguments, referring to the fact of my father's impaired vision.

From the time I was about 10 years old—1948—until my father's death in 1976, at the age of 72, however, my mother would chastise him at least once a day for having given up his driver's license, and he would respond with the obvious: that he couldn't see well enough to drive, especially at night, and that he didn't want to endanger us or others. Although their cruel dance—a painful mix of rage, guilt, venom, shame and humiliation—was a constant in our lives, in this one thing, and with a confidence he rarely showed on other occasions, he'd state his case and stick to it.

And though he occasionally threatened to put an end to my mother's misery (and his own) by killing himself, he never, to me, or to her, or to anyone else I knew, excused his failures or moods by reference to his faulty vision. So that, when I walked around the house

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The Authors Guild, the oldest and largest association of published authors in the United States, works to protect and promote the professional interests of its members. The Guild's forerunner, The Authors League of America, was founded in 1912. The Authors League now serves the joint interests of The Authors Guild and The Dramatists Guild.

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with one eye covered, I was identifying with that part of him which, though wounded, was also a source of strength. When I closed one eye while shooting baskets, or throwing a ball, or crossing a street, I was training myself to do what he and men like Tommy Thompson and Bob Schloredt did: I was noticing shadows, and which way they fell; I was becoming aware that the smaller objects were, the further away they were likely to be, and that the brighter similar colors were, the closer they were likely to be. I was noticing the way people and things overlapped, whether they were arms or legs or curtains—and I was paying attention to the infinity of small and large markers that, like road signs on highways and yard lines on football fields, defined space; by being attentive to such things, I could, in my mind—the way all of us do when we

watch (2D) movies or look at photographs—turn two dimensions into three. In this way I could not only see the world the way my father saw it, but I could also, briefly, *be* my father, and could be close to him in ways that eluded us through most of our lives.

In the decade before he died, I began publishing stories and novels, and he talked to me about them in ways he'd rarely talked to me about anything else. He even bragged to others that I'd not done the expected or the predictable—become a doctor, lawyer or engineer—but had become, his emphasis, a writer and maker of stories. How sweet, it occurs to me, that I had somehow chosen a vocation whose task, as Conrad reminds us, is "by the power of the written word, to make you hear, to make you feel—it is, before all, to make you see." ♦

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