

Volume 49  
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# ASJA

American Society of Journalists and Authors, Inc.

n e w s l e t t e r

## *The "Standard" Book Contract:*

### **An Antitrust Lawsuit Waiting to Happen**

By Thomas Hauser, Attorney-at-Law

Publishing is a business. No one questions that reality. And whatever it might have been in the past, publishing is no longer the "gentlemanly" business it was once thought to be. Rather, it is about squeezing every last dollar out of every available source—and the most vulnerable source is the author.

Best-selling writers might be treated fairly by the media conglomerates that dominate publishing today, but the average author is not. And no clearer proof exists than the "standard" book contract, routinely forced upon authors and their agents. Many of the clauses that have been imposed on authors throughout the industry bear no relationship to any economic reality other than the best interests of the publisher.

Yet these clauses flourish because virtually every major publisher insists on them—and the average author has no recourse.

Kay Murray has been general counsel for The Authors Guild since 1994. "The contracts were bad enough when I got here," says Murray. "But over the past five years, they've become far more exploitative. The new technology has led to a significant decrease in cost and risk to publishers, but they simply will not share the wealth. In fact, every few months now, there is another change for the worse, with all of the major publishers acting in lockstep on it."

The abuses fit into several categories. First, in contracts that are ostensibly written to assure publication, there are now clauses that, under certain circumstances, can prevent writers from being published.

In the past, when an author signed

a contract with a publisher, he or she could safely assume that the book under contract would be published. However, as a general rule, most publishers now insist upon a clause that relieves them of that obligation. More specifically, if a publisher chooses for any reason not to publish a given book, the author can keep the portion of the advance that has been paid. But that is

all. And in some instances, if the author resells the book to another publisher, even that partial advance must be repaid. In other words, the standard publishing contract today is nothing more than a one-sided option to publish, obligating the author, but not the publisher.

As for traditional options, publishing contracts now often contain several dra-

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Mark your  
calendar for  
ASJA's  
Annual  
Writers'  
Conference  
East,  
April 29-30.  
See page 3.

## ASJA

## c a l e n d a r

*Events are open to the public unless otherwise specified.*

### **All Day Member's Meeting**

Friday, April 28 – New York City  
Details on page C5

### **29th ASJA Writers Conference East**

Saturday-Sunday, April 29-30 – New York City  
Details on page 3

### **Looking Ahead**

New York (national) meetings are at the Society of Illustrators, 128 East 63rd Street, unless noted otherwise. Most dates are still being confirmed. Tapes of all New York meetings will be available from the ASJA office.

San Francisco (Northern California Chapter) meetings are at Swiss Louis, Pier 39.

#### **May**

New York, May 25. **Recycling Your Work**

#### **June**

New York, June 27. **Life in the First Person**  
San Francisco, June 20. **Gala Dinner**

#### **September**

New York, Date TBA. **Weeklies for Women**





## newsletter

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# Shimon-Craig Van Collie

It is with great sadness that the Society announces the death of Shimon-Craig Van Collie, Northern California chapter president. Shimon succumbed to pancreatic cancer in late February. He will be greatly missed by those of us who were privileged to know him.

Shimon-Craig Van Collie was a funny, cheerful, spirited and energetic man, who brought much joy to his world. As a member of ASJA, he was extremely generous with his time and efforts and participated on both the local and national levels. He was a joy to be around, with a twinkling smile always at the ready. In particular, he perpetrated a small act of kindness that I will never forget.

Shimon attended most ASJA national conferences on both coasts. At each one, he would go out of his way to greet the staff and let us know he appreciated our efforts. One year, many years ago, he went out for a walk during the morning sessions and returned with a single flower for each of us. It became a tradition. He would always arrive at the conference bearing small corsages for the office staff. Those corsages helped get us through the long and stressful days, reminding us that working at ASJA conferences really was not the thankless job it sometimes seemed.

One recent year, Shimon forgot to bring the flowers with him. But after the conference was over and he had gone home, an envelope arrived at the office. I was moved to find that Shimon had sent us two small paper flowers made by his son Chai to thank us, and to apologize for his oversight. My flower remained pinned to my bulletin board until my last day at ASJA, and I left it there to show my successor what wonderful people ASJA members can be.

I remember his laugh and bright smile, and the way his eyes would light up when he would talk about Chai. He was a good friend who brought sunshine to a weekend I always spent in dark hotel hallways, and many other days besides.

Thank you again, Shimon.

*Alexandra Owens  
 former ASJA Executive Director and  
 Director, ASJA Writer Referral Service*

What a strange, unfair life this is we have set out to chronicle. Those of us who have lived to see grandchildren can only weep, not for our loss of Shimon, although that is profound, but for what he will not have: the days and years with his beloved son, the books unwritten, the time with his many, many friends.

When a good person goes far too soon, we try so hard to make sense of it. There is no

sense. He gave us all: his friendship, his charm, his wit, his loyalty. He flirted better than anyone. He laughed with abandon. I will miss him always.

*Bonnie Remsberg  
 El Granada, California*

I was very saddened by Shimon Van Collie's death, although not entirely surprised, since he had written to me some months back that his illness was very serious. I only saw him a few times—he would breeze into the office occasionally—but we were in touch over one Dial-A-Writer thing or another and sometimes he would write a note on the back of one of his son's pictures.

He was a princely guy, never full of himself but always impressive.

Everyone admired him and he will be missed by us all.

*Dorothy Beach  
 Former Director, Dial-A-Writer*

Shimon was a good friend. He was someone you could count on and someone you enjoyed spending time with. I first met him years ago when I became involved with ASJA and he was serving as chapter president here in Northern California. I remember being impressed with his gentle humor and with the fact that he got things done.

Over the years, we worked on many projects together and it was always a pleasure. Shimon was a man of wide-ranging interests and it was fascinating hearing about his sailing, sail boarding, tennis, and, on the flip side, his writing about banking.

His passion for life came through clearly in his love of ethnic dance and he was an avid performer. In 1998, he won the honor of being the King of the Carnival in San Francisco. Afterward he laughingly recounted that he won the right to be king of this extravaganza by "shaking his bootie" at one of the audition judges. Not exactly the way you normally think of a banking writer, is it?

His greatest passion in life was his love for his son Chai, who is only seven years old. Everyone in the chapter got to know Chai in his early years because his proud Daddy tended to bring him to ASJA events whenever possible (especially when he was very young) and Chai was always delightful. When the serious nature of his illness became apparent, Shimon told me he intended to fight it because his greatest wish was to dance at Chai's wedding some day. It breaks my heart that he will not get his wish.

Shimon will be deeply missed not only by  
*continued on page 5*



## 29th Annual ASJA Writers Conference

# Explore New Territory, Energize Your Career at 2000 Writers Conference East, April 28-30

Dominick Dunne, Michael Moore, Dava Sobel and James Stewart will be there. You should be, too.

Attend this year's **Annual Members' Meeting and 29th ASJA Writers' Conference East** for three days of energizing ideas, writerly connections, income-boosting techniques and new ways of approaching the work you love (or want to love).

"Been there, done that," you say? Think again: the panels and speakers on both days will explore exciting new territory while also updating and expanding what you need to know on methods, markets and managing your career.

You *must* be there: **Friday, April 28 and Saturday, April 29**. There are also specialized three-hour writing workshops offered for additional fees on **Sunday, April 30**.

All events are at the **New York Hilton Hotel**, Sixth Avenue between 53rd and 54th Streets. Full program brochures have been mailed; ASJA members should use the form on page C5 for deep discounts on conference registration. You can also find more details at [www.asja.org](http://www.asja.org)

Here's just a taste of what's scheduled.

### Friday, April 28 ASJA Members-Only Meeting

Open *only* to ASJA members, this all-day event offers your choice of professional-level panels. Explore writing for the Web, teaching writing, navigating the relationships of literary journalism, taking a long view of your writing career and on-demand publishing.

Distinguished authors on the **literary craft panel** include Pulitzer Prize winner **James Stewart** (*Blind Eye*, *Den of Thieves*, *Follow the Story* and articles for the *New Yorker* and others), ASJA member **Robin Marantz Henig** (*The Monk in the Garden* and other books) and author **Henry C. Wiencek** (*The Hairstons* and others).

Two panels focus on how new media can help writers prosper. The **Web writing panel** features **Laura Miller** of Salon.com, **Rich Jaroslovsky** of WSJ Interactive, **Elizabeth Herrera** of ParentTime and ASJA members **Lisa Price** and **Stevanne Auerbach, Ph.D.**, both of whom write for Web sites.

Find out how to republish your out-of-print titles or take an alternate route with a new book at a panel about **on-demand pub-**

**lishing** that includes **Kenzi Sugihara**, publisher at iUniverse.com, and ASJA members **Shirley Camper Soman** and **James Lichtenberg**, members of the *ad hoc* Publishing Program Committee, which is investigating setting up an on-demand publishing resource for ASJA members.

A sit-down luncheon provides time to connect with other ASJA members and watch the annual awards ceremony. The afternoon business meeting offers an overview of what has been happening in ASJA and what is to come.

All of Friday's panels are described more fully on page C5.

### Saturday, April 29 Annual Writers' Conference East

Open to both members and non-members. Frankly, all we can say is, "Wow!" ASJA members have built a terrific conference featuring big-name writers, editors, agents, and publishers.

At the luncheon, featured speakers **Dominick Dunne** and **Michael Moore** will talk about their lives and writing careers. So who's gonna need dessert? Dunne, a Hollywood survivor, *Vanity Fair* writer and best-selling author, writes about the noted and notorious Moore, an irreverent filmmaker, author and TV producer, covers U.S. economics and politics anyway he pleases. Not to be missed.

The conference's 25 panels are just as substantial.

Learn about **The Making of a Bestseller** when author **Dava Sobel** (*Longitude*, *Galileo's Daughter*), her agent, publisher and the director of marketing for Walker & Co. detail their roles in creating a winning book.

Or choose the panel on the **Selling the Past: Historical Writing and Its Markets**. You will hear from **Frederick Allen** of *American Heritage*, agent **Laurie Langlie**, **Denise Roy** of Simon & Schuster and ASJA members **Jack El-Hai** and **Scott S. Smith**, both writers of historical material.

If you're interested in **Building a Career in Literary Journalism**, there's a panel with editors from *Civilization*, *Mirabella* and *Men's Journal* as well as ASJA member **Eve LaPlante**, who writes for *Atlantic Monthly*.

There's also a look at **Trends and Techniques in Narrative Nonfiction** by a panel featuring **Dava Sobel** (again), **Lynn Darling** of *Esquire* and ASJA authors **Robert Kanigel** and **Ruth Gruber**.

**The Hot New Book Revolution: E-, On-**

**Demand and Internet Publishing** are the topic for **Angela Adair-Hoy**, of WritersWeekly.com and Booklocker.com, **Larry Brewster** of Lightning Print, **Ashley Gordon** of Sprout and **Richard Curtis**, an agent who offers online e-book publishing and on-demand printing.

A panel on **Cashing in Online** includes: **Jesse Kornbluth**, editorial director of AOL; **Charlene Laino** of MSNBC; **Laura McKeown** of WebMD, ASJA member **Carla Cantor** of CBS HealthWatch, Medscape.com and **Dan Hurley**, ASJA vice president (publications) who has several online enterprises.

Thinking of changing the course of your career? Consider these panels:

- **Turning Fact Into Fiction**
- **Big Money: Business and Corporate Writing**
- **Expand Your Markets: Single-Sponsor Publications**
- **What Book Publishers Want Now**

Or you can scope out a new specialty at panels about writing on spirituality, health, humor, parenting, or entertainment.

The always-popular panels on **Selling to Women's Magazines** and **The Expanding World of Men's Magazines** are back, as are **Digital Digging: 'Net Research that Works**, **Writer in Demand: Self-Promotion**, **What Magazine Editors Really Want** and much more.

You get the idea. It's a day loaded with information, contacts, resources, a great lunch and, yes, fun.

### Sunday, April 30 Half-Day Workshops

If you want more, there are four Sunday workshops, each requiring an additional fee.

- **Book Proposals That Sell**
- **The Personal Touch: Essays and Op-Ed Writing**
- **Writing Professional Article Queries for Magazines**
- **Memoirs: Writing Your Life Stories**

These intensive, three-hour sessions provide more depth on each topic than time permits at the conference.

REMEMBER: the Annual Members' Meeting and Annual Writers' Conference East are a little earlier this year than usual: April 28, 29, and 30.





**Ada P. Kahn's** latest book, *Keeping the Beat: Healthy Aging Through Amateur Chamber Music Playing*, was launched earlier this year. It features profiles of 24 older men and women and gives insights into how and why playing chamber music helps them feel vital and energetic. Ada recently appeared on television programs in San Diego, St. Louis, and Baltimore to promote her book. See Ada's Web site at <http://www.keepingthebeat.com> for more details.

◆ ◆ ◆  
Among the services on Amazon.com is computer-generated information related to who buys which books. Reportedly this is for the benefit of regular customers who can thus discover which books or authors might interest them because they have interested others purchasing from Amazon.com in certain categories. **Hal Higdon** recently discovered that he appeared in a list of authors whose books had been purchased by customers ordering *A Trial of Witches: A Seventeenth-Century Witchcraft Prosecution*. Higdon suspects it was because of his recently reprinted *Leopold and Loeb: The Crime of the Century*. However, he finds it a rather delicious thought that those interested in witchcraft might also be interested in his best-selling *Marathon: The Ultimate Training Guide*.

◆ ◆ ◆  
ASJA member and independent publisher **D. Patrick Miller** is interviewed about his experiences in both mainstream and independent publishing by eBooknet. You can find the interview at <http://www.ebooknet.com/story.jsp?id=1215>

◆ ◆ ◆  
**Alan Caruba** is once again a judge for the annual Publishers Marketing Association Benjamin Franklin Awards. This year he is judging coffee-table books.

Alan's Internet site, Bookviews.Com, is enjoying many visitors as the word gets around that it is about the best new fiction and nonfiction from a pure reviewing point of view. Alan features upwards of sixty to seventy books every month. Alan is a charter member of the National Book Critics Circle and says he particularly welcomes books by fellow ASJA members!

Putting on yet another hat, Alan tells us that his famed media spoof, The Boring Institute, announced its 15th annual "Most Boring Films of the Year Awards" just before the Academy Awards. A pure coincidence, he insists. They are posted on [www.boringinstitute.com](http://www.boringinstitute.com).

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Just before Valentine's Day, Barbara Walter's

# YOU NEWS

daytime talkfest "The View" did a show devoted entirely to weddings. Not only did Meredith Viera mention **Leah Ingram's** new book *Your Wedding Your Way* (Contemporary Books, 2000) on the air but, at the end of the show that day, a copy of the book was given to each audience member to take home.

◆ ◆ ◆  
**Tina Tessina's** book, *The 10 Smartest Decisions a Woman Can Make Before 40* (HCI 1999), has been licensed for German, Slovene, Korean, Czech, Spanish, Estonian, French, Bulgarian, and Greek editions. According to The Rights Agency in Montreal, "I will venture to say that we will be able to place your book in maybe six more languages. *10 Smartest Decisions* is one of our best-selling titles in the moment on the foreign front." A sequel, *The 10 Smartest Decisions a Woman Can Make After 40*, will be published next year by Renaissance Books.

◆ ◆ ◆  
Los Angeles member **Martin Zucker's** two new books, *The Veterinarians Guide to Natural Remedies for Dogs* and *The Veterinarians Guide to Natural Remedies for Cats*, were published by Three Rivers Press/Crown Books in February. Zucker interviewed thirty-five top holistic veterinarians and asked them which remedies and diets work the best for pets. The answers and recommendations from the pros give pet owners powerful healing options. The information enables them to find the right diets and health care products that work, thus bypassing the confusion of conflicting advertising hype. "Very readable, consumer-friendly books," wrote Jean Hofve, DVM, in *Animal Issues* magazine.

◆ ◆ ◆  
**David Groves**, author of *Be a Street Magician: A How-to Guide* (Aha! Press, 1999) and *Confessions of a Street Urchin* (Aha! Press, 1999), is in the middle of a 30-city lecture tour. In March and April, he was scheduled for appearances at bookstores, magic clubs, and festivals in the Southwest (Las Vegas, Phoenix, Tucson, Albuquerque), Colorado (Denver, Colorado

Springs, Fort Collins, Boulder), Kansas (Wichita), Missouri (Kansas City, Springfield, Columbia, St. Louis, Joplin, Branson), Oklahoma (Oklahoma City, Tulsa), and Texas (Dallas). In May and June, he will appear in Florida (Tampa, Jacksonville), Georgia (Atlanta, Augusta, Macon), South Carolina (Charleston, Columbia, Greenville, Myrtle Beach), North Carolina (Charlotte, Raleigh/Durham, Wilmington, Greensboro), Virginia (Richmond, Norfolk, Staunton, Roanoke), Washington D.C., and Maryland (Baltimore). Should any writerly ASJA types in any of those cities wish to have coffee with David as he's passing through, they may e-mail him at [mysterious@compuserve.com](mailto:mysterious@compuserve.com).

◆ ◆ ◆  
One year after PEN International published *This Prison Where I Live*, an anthology of prison writings, **Mavis Guinard** co-edited and translated the French version with the help of PEN writers in French-speaking Switzerland. "Finding a publisher taught me persistence. A third of the 50 writers were world famous, like Arthur Koestler, Vaclav Havel, Dashiell Hammett or Wole Soyinka. All had been jailed for their opinions. Nevertheless, I collected a fat folder of rejections. Now, I try to keep sales of *Ecrivains en Prison* up through ongoing readings. Last year, Swiss actors read extracts at Geneva's International Red Cross Museum. On May 4, it will be staged at the Café Littéraire of the Salon du Livre, Geneva's Book Fair. If any ASJA members happen to be there, drop by."

Mavis adds this P.S.: "If you know French teachers, you might recommend it as a comparative lit tool: *Ecrivains en Prison*, Labor et Fides, Geneva, 1997. The English language edition, *This Prison Where I Live*, was published by Cassell in 1997. Proceeds go to PEN International's Writers in Prison Committee."

◆ ◆ ◆  
**Claire Tristram's** short story "Somewhere I Have Never Traveled" was selected for publication in *Best American Erotica 2000* (Simon & Schuster, Feb. 2000).

◆ ◆ ◆  
**Felice Buckvar** is leading a writers' workshop on the morning of Saturday, April 1 at C.W. Post College in Brookville, Long Island, from 9:00 a.m. to 1:00 p.m. The number of participants will be limited, and all are urged to bring in fiction and nonfiction for helpful critiques and guidance in publishing. Call (516) 299-2236 for details.

◆ ◆ ◆  
**Jeff Miller** will be spending all of 2000 in Melbourne, Australia, as part of his wife's

*continued on page 5*





## Shimon-Craig Van Collie

continued from page 2

me and the Northern California chapter, but by all who were blessed by knowing him.

*Donna G. Albrecht  
Concord, California*



Shimon Van Collie died of pancreatic cancer on February 27. For those who did not know him, it is a greater loss than you can imagine. Shimon was a remarkable writer and enthusiastic participant in ASJA. More important, he loved us.

For Shimon, nothing was as important as life and living it to the fullest. He touched each of us with his eagerness to share this spirit. Nothing in his life was banal, wasted, or useless. He took on daunting tasks because he

deemed them important. A sailboard enthusiast, he once sailed from San Francisco Bay to the Farallone Islands and back, a 52 mile offshore trip, to raise money for the Hunger Project. A dangerous expedition for some, but for Shimon a necessary trip.

Shimon was the only member of the yachting press – local, national, or international – who attended a safety at sea demonstration in San Francisco Bay, jumped from a boat, and waited in the 50° water to be rescued. “I didn’t know how lonely it could be until I saw my boat sail away,” he said to me while still shaking from exposure and fear. He jumped in the water because he knew it was the only way to understand what the story was. His story and pictures were vivid and scary.

For years, his profiles of sailors appeared in local publications. He made those sailors live

in unexpected ways. The good in people was always the best story for Shimon. No matter what kind of a scoundrel others saw, Shimon dug deep to find a flesh and blood person who cared about sailing. “There are some people I will not write about because it will not be a good story.” Indeed, if he did not see the good in a project or person, it was not worth his time.

He gave me a sense of value. He encouraged me to join ASJA. We co-authored two sailing books. We could talk anywhere, anytime, about anything. Our last conversation was painful because we both knew it was our last one. His final words were, “Thank you, I love you.”

We have lost an extraordinary man.

*Diana Jessie  
Hong Kong*



## You News

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teacher exchange program. He will continue to work at his usual profession of travel writing, while also completing a nonfiction health book that an agent is currently marketing to publishers. Additionally he will be approaching Australian book publishers about a World War I novel he has written.



ASJA member **Alma Bond's** late husband, Rudy Bond, wrote a book called *I Rode a Streetcar Named Desire*. It has just been published posthumously by Birch Brook Press. Rudy was an actor in the original company of Streetcar as well as in the movie, and wrote about the history of the production, from the time Elia Kazan cast him until the opening night curtain.



*Sunset* magazine called **Janet Bailey's** *The Great San Francisco Trivia & Fact Book* “addictive.” *Travelwriter Marketletter* said, “This is not a trivial book... If you have any interest in San Francisco at all, this book will fascinate you.” The title is in the top 25 on Amazon.com’s list of bestsellers about San Francisco.



**Barbara Bartocci** has stories anthologized in two recently released Chicken Soup books: *Chicken Soup for the Dog and Pet Lover's Soul* and *Chicken Soup for the Golden Soul*. Both stories originally appeared in *Reader's Digest*.

Barbara will also be a featured speaker at the Clemson University Conference on Professional Development for Women, April 3, in St. Louis, and the featured speaker at Oklahoma State University's Secretary's Day on April 26.



**Russell Wild's** *Games Bosses Play* (Con-

temporary, 1997) has been selling well overseas. Translations to date include Russian, Chinese, Portuguese, and Estonian.



**Elizabeth Randolph's** *The Veterinarians' Guide to Your Dog's Symptoms* won the Maxwell medallion at the annual dinner of the Dog Writers Association of America Inc. on February 13<sup>th</sup>.



HarperTrophy is publishing **Carol Weston's** newest book *Private And Personal: Questions and Answers for Girls Only* in April. A seven-city book tour is scheduled. The January 31 *Publishers Weekly* called Weston “a veteran author of the genre” and reported total sales of 150,000 copies of her first book *Girltalk: All The Stuff Your Sister Never Told You*. *Girltalk* has been through three editions in the U.S.



**Candyce H. Stapen's** new book *National Geographic Guide to Family Adventure Vacations: Wildlife Encounters, Cultural Explorations and Learning Escapes in the U.S. and Canada* will be published by National Geographic in April. For review copies contact Carolyn Ruff, (202) 857-7793.



**Pauline Bartel** has been elected president of the Southern Saratoga (New York) Chapter of Business Network International.



**Karen Feld** traveled to Cuba in February, interviewing a wide cross-section of Cubans, including National Assembly President Ricardo Alarcon. She also spoke to American tourists and visitors participating in the People-to-People program, and visited Elian's hometown.

Shimon was always dedicated to decency, justice, and kindness. He strived to live “a moral life,” at a time in this country when most people are striving only for a monied life. At the same time, he was juicy and sexy – full of fun and eternally young – filled with the optimism and flexibility and adventuresome spirit of youth. He was a giver, as many of us at ASJA knew. He gave, he participated, he cared, he loved his son, he loved to dance, he loved life. Which is why it is so hard to believe he is gone. I think he particularly loved the freedom and opportunity of the freelance life. Earning a living pursuing one's interests and passions particularly matched his spirit and character. I will miss him. Everyone at ASJA will miss him. He was one of a kind.

*Eleanor Foa Dienstag  
ASJA Past President and friend of Shimon*



I feel extremely fortunate to have known Shimon. He was a genuinely nice person who cared about ASJA, his profession, and his life. Nearly a decade ago, I remember meeting him in New York at the national conference. We were then young writers – optimistic and enthusiastic. Over the years, we watched our careers and personal lives grow, evolve, and change. All the while Shimon never lost his enthusiasm or his kind spirit. Life is not always fair, and Shimon certainly did not get what he deserved. Nevertheless, we are left with a profound sense of joy that he was part of our lives. Ultimately, there is no greater accomplishment that one can achieve in this world.

*Sam Greengard  
ASJA President*





## Literary Nonfiction Web site

The **University of Oregon's Literary Nonfiction Program** has established a new Web site for writers. The Literary Nonfiction Program is part of the School of Journalism and Communications at the U of O. The Web site features interviews with famous literary nonfiction authors, a list of the classics of the field (Joan Didion, Truman Capote and others) plus "picks of the '90s," recent works by literary nonfiction writers. You will also find *Etude*, a showcase of works by emerging literary nonfiction writers. The site provides information on the University of Oregon's Literary Nonfiction Program, a two-year residential program that is part of the School of Journalism and Communication. The Web addresses <http://lnf.uoregon.edu>.

## Digital Technology Award

**iUniverse.com** is sponsoring the Digital Technology Award of the **Small Publishers Association of North America (SPAN)**. The award is for achievement of excellence in the use of emerging technologies and will be given at the SPAN 2000 Publishing College in October. The purpose of this award is to spur creativity and involvement in what has become a publishing revolution. First prize is \$10,000 with runner-up prizes of \$2,000 and \$1,000.

SPAN is a nonprofit trade association founded by ASJA members **Tom and Marilyn Ross**. It welcomes proactive authors, as well as self-publishers and small- to mid-sized publishers, as members. For more information and to receive a free sample newsletter with the Award criteria, go to <http://www.SPANnet.org>.

**Deadline:** August 1, 2000.

## La Dolce Vita

ASJA board member **Michael Sedge** will be one of three instructors at a six-day writing and Italian cooking workshop in Italy. The *La Dolce Vita Writer's Holiday* takes place in Tuscany, an hour north of Rome, in October. The other instructors are Italian chef, **Laura Caponetti**, who will help you create wonderful Italian food and professional writer and

# ANNOUNCEMENTS

photographer **Joel Jacobs**.

"This is a once-in-a-lifetime chance," explains Sedge, "for both novice and veteran writers to learn the skills of better writing, as well as global marketing of articles and books, in an intense week of seminars. It is also an opportunity to escape to the picture postcard setting of rural Italy, participate in excursions and enjoy the art of Italian cooking."

The workshop will be held on a working, 125-acre horse ranch. Five mornings will feature marketing and writing instruction, while three afternoons will be occupied in cooking classes, and two afternoons will be free for guided exploration of the Medieval town of Tuscania and the Etruscan ruins at Casa Caponetti. Complete details of the lodging as well as Laura Caponetti's cooking school can be found on the Internet at <http://216.121.150.202/caponetti/page2.html>.

The cost for the six day Writers' Holiday, including writing and marketing sessions, cooking classes, area tours, lodging, meals, and round-trip transportation from Rome to Tuscania is just \$2,200. For more information, visit the holiday Web site at <http://www.novalearn.com/wol/DolceVita.htm>.

## National Coalition of Independent Scholars

The **National Coalition of Independent Scholars** is seeking papers and panel presentations for its annual conference to be held October 27-29, 2000, in Raleigh, North Carolina. The conference will focus on the future of Independent scholarship both within an outside academia. For more information contact:

Thomas C. Jepsen, Program Chair  
515 Morgan Creek Road  
Chapel Hill, NC 27514  
Phone: (919) 933-0377  
e-mail: [tjepsen@mindspring.com](mailto:tjepsen@mindspring.com)

**Deadline for proposals:** May 1, 2000.

## Empire State Daybook

A company called **Empire State Exchange** is offering members an opportunity to send announcements of news conferences, conventions, meetings, speakers, special events, and other activities for consideration for their Empire State Daybook. The Daybook editor is

Marci Revette at (800) 552-2194, e-mail: [marci@eisinc.com](mailto:marci@eisinc.com).

### Reminders and Deadlines

**Environmental Journalists' Meeting** in Fiji, June 5-9. More information is available at the Web site of the Asia-Pacific Forum for Environmental Journalists: [www.oneworld.org/slejf/Fiji.htm](http://www.oneworld.org/slejf/Fiji.htm). (Details in March 2000 newsletter)

**Society of American Travel Writers Fifth Annual Institute for Guidebook Writing** in Orlando, Florida, June 2-4, 2000. Information at <http://www.infoexchange.com/IGW> or contact Tom Brosnahan, Institute Coordinator, at [tbros@infoexchange.com](mailto:tbros@infoexchange.com), phone (978) 371-1851, fax (978) 287-0540, or P O Box 563, Concord, MA 01742-0563. (March 2000)

**Santa Fe Science Writing Workshop** – June 24 through 29 in Santa Fe, New Mexico. Information at <http://sciwrite.org>. (February 2000)

**Book Promotion Boot Camp** run by ASJA member Jan Yager. Date in New York in May. Phone: (203) 329-8738. (February 2000)

**National Science Foundation Antarctic Research Projects** – deadline for proposals is May 1, 2000. (February 2000)

**Warner Aspect First Novel Contest** – deadline for entries is June 30, 2000. (January 2000)

**Microsoft/NuvoMedia/Softbook \$100,000 Prize for Best EBook** – The \$100,000 top prize will go to the best book originally published in the ebook format with four \$10,000 prizes for other books originally or eventually published in electronic format and two more \$10,000 prizes for the best spoken word or audio book delivered in digital form. Details at <http://Frankfurt-ebook-awards.org>. (January 2000)

**Playwriting Residency at the University of British Columbia**—worth about \$17,000 U.S. Application deadline is April 30, 2000. (January 2000)

## Moving?

Please mail, fax, or e-mail details to the ASJA office—*not* the NEWSLETTER editor.



# An Antitrust Lawsuit Waiting to Happen

*continued from page 1*

conian provisions. Authors must submit their next book in completed manuscript form to the publisher before it is considered by any other publisher. But the first publisher need not consider the manuscript before publication of the work currently under contract. And then, even if the first publisher declines the second project, the author must subsequently offer that publisher the chance to match any offer received at a later date from any other publisher.

Thus, an author who has a book under contract to a publisher can find his or her career put on hold indefinitely.

In sum, just getting published is an adventure in contract law for most authors. And when authors are published, they find that their royalties have been cut precipitously by today's standard publishing contract.

For example, most publishers now require a clause stating that, if the publisher increases its discount to a particular book-buyer beyond a certain percentage, the author's royalty is cut in half. The logic underlying this provision is that, if a publisher has to give a giant like Barnes & Noble a break in order to sell books, then the author should shoulder part of that burden. However, the way the formula works in practice, a publisher can increase its discount to Barnes & Noble by, say, forty cents on a twenty-dollar book (two percent of list price) and that might result in the author's royalty being cut in half, from \$3 to \$1.50. In other words, the publisher takes \$1.50 out of the author's pocket, gives forty cents to Barnes & Noble, and keeps the remaining \$1.10 for itself.

Similarly, if a publisher brings out a trade paperback edition of a book that it originally published in hardcover, the author would get eight percent of list price under the standard book contract. But if the publisher sells paperback rights in a sweetheart deal to one of its affiliates, the author gets only 50 percent of the amount received from the affiliate, and that amount may well be less than an open-market sale to an unaffiliated paperback publisher would bring.

The handling of electronic rights is another form of exploitation. In this new arena, there are no warehouse costs, no printing costs, and no rational correlation between what an author is paid and the publisher's income. Premium sales (such as books sold to corporate

purchasers as give-away items) and special sales (for example, bulk purchases) are often treated in a similarly one-sided manner.

It should also be noted that, when it comes to royalty statements, honest accounting is not a high priority for most publishers.

So, obviously, things are unfair. And there is more. There is nothing improper about an author being held liable if he or she has violated someone's rights. But most large publishers now insist upon a warranty and indemnification clause that holds the author liable for damages and attorneys' fees regardless of fault. In some instances, a publisher can even settle a lawsuit without the author's consent, and charge the author for the cost of settlement, whether or not the author has done anything wrong!

And, on top of that, the standard publishing contract gives publishers the right to extend an author's warranty and indemnification to third parties who might not even defend against a lawsuit. (How would

you like to be the author who's hit with a \$10 million judgment from a court in Belgium?)

The list goes on. The standard publishing contract is replete with clauses that strip authors of control over their books. Publishers can grant sublicenses to third parties, who are empowered to cannibalize and, in some cases, even rewrite a manuscript, and the author has no say in the process. A publisher can sublicense a book to *Screw* magazine or the like, and if the author does not like it, tough luck. Moreover, most authors today are accorded no meaningful consultation rights with regard to book covers and dust jacket copy.

As a practical matter, publishers will negotiate on some of these issues and occasionally make minor changes in contracts. Small publishers and university presses are a bit more flexible than large ones. But for most authors, there is no recourse because there is no power. As Kay Murray of The Authors Guild says, "The playing field simply is not level. The contracts are all so bad now, it is choose your poison."

But one ray of hope does exist. As Microsoft recently found out, the antitrust laws of the United States are sometimes enforced. And while Microsoft was the target of a lawsuit alleging monopoly abuse, the *Sherman Act* has a second component aimed at shared abuse of power: "Every contract, combination, or conspiracy in restraint of trade is illegal."

"The playing field simply is not level. The contracts are all so bad now, it is choose your poison."



Quite possibly, what now passes for "standard" in the publishing industry is an illegal restraint of trade. The Antitrust Division of the Justice Department should take a long, hard look at the standard publishing contract. Publishing today is characterized by powerful corporate entities acting in concert, to the detriment of essentially powerless authors. And if one cares about the future of the printed word, something must be done to remedy the situation, because it is driving a lot of good writers out of book publishing. They simply cannot make a living writing books anymore.

*Thomas Hauser is a New York City attorney and the author of 22 books, including Missing, which served as the basis for the feature film starring Jack Lemmon and Sissy Spacek, Muhammad Ali: His Life and Times, and, most recently, Mark Twain Remembers, published by Barricade Books. He is currently completing his ninth work of fiction—Finding The Princess—which will be published by the University of Arkansas Press in the fall. He can be reached by fax at (212) 496-7990.*

*In his letter granting permission to reprint this article, Mr. Hauser said:*

*"I would encourage the organization you belong to (and the members as individuals) to write to the Justice Department and request an antitrust investigation. The letter should go to United States Department of Justice, Antitrust Division, 325 7th Street NW, Washington D.C. 20530.*

*"Last, the more of you who write about the issue, the more likely it is that the Justice Department will act."*

*Of course, virtually everything Mr. Hauser says about book contracts also applies to magazine contracts.*

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