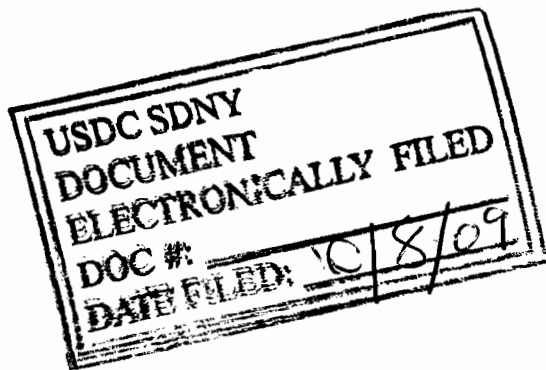


(MON) 17:19

BONI & ZACK LLC

Michael J. Boni

610.822.0201 | CELL 610.348.2526 | mboni@bonizack.com



The Clerk of the Court
shall accept this
letter for filing,

October 5, 2009

and the ASMP
movants shall

respond by 10/14/09.

SO ORDERED.

VIA FACSIMILE

The Honorable Denny Chin
United States District Judge
U.S. Courthouse 500 Pearl Street
New York, New York 10007

Re: *The Authors Guild, Inc., et al. v. Google Inc.*, 05 Civ. 8136-DC

Dear Judge Chin:

Plaintiffs hereby respond to the September 24, 2009 Motion for Reconsideration (Doc. No. 736, "Mot. Reconsider.") filed by the American Society of Media Photographers ("ASMP"), et al. (collectively "ASMP movants"), which purport to hold copyrights in photographs and other forms of visual art that are not included in the settlement. The reconsideration motion fails both as a matter of substance and procedure.

The Author's Guild et al v. Google Inc.

Doc. 754

First, the ASMP movants are not members of the class and have always known that they are not. As the ASMP's General Counsel put it in April 2009, "I knew...before it was filed" that the class action complaint would "be limited to textual materials." See p. 2, *infra*. Thus, any suggestion that movants are confused as to whether they "are members of the class or have been excluded" (Mot. Reconsider. 2) lacks credibility.

Second, that the class potentially *could have* included the proposed intervenors is legally irrelevant. The Author Sub-Class and the Publisher Sub-Class were under no obligation to settle and extinguish the claims of every person conceivably affected by the alleged conduct of Google. See *In re Holocaust Victim Asset Litig.*, 225 F.3d 191, 201 (2d Cir. 2000) (even a broadly drafted "complaint in a class action lawsuit does not vest in putative class members a right to be part of the class ultimately certified by the District Court").

Third, the ASMP movants will not be prejudiced if they are denied intervention. No claims they may have against Google will be released by the settlement, and they remain free to pursue those claims. See *id.* at 199 ("Because appellants remain free to file a separate action, they have not established that they will be prejudiced if their motion to intervene is denied."). By contrast, it is clear that intervention at this stage would be highly prejudicial to the parties.

Hon. Denny Chin
October 5, 2009
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Finally, movants do not even mention, let alone satisfy, the standards for reconsideration. In fact, they would be unable to satisfy such standards, as there has been no change in the law or facts since their motion was denied, and the Court did not fundamentally err in its ruling.

The ASMP Movants Always Knew They Were Not In The Class.

The ASMP movants are not members of the class, and the ASMP has known this for years.

Victor Perlman, General Counsel and Managing Director of the ASMP, who filed a declaration in support of objections to the settlement (Doc. No. 218), has publicly admitted knowing – since even before the filing of the original class action complaint – that photographers and other graphic artists were not included in this litigation. At a Columbia Law School symposium on the settlement on April 1, 2009, Professor Jane Ginsberg introduced Mr. Perlman by asking him the following question: “Remember the photographers are not included in this settlement and therefore are not part of the book rights registry. I guess the first question is why not?” See Excerpted Transcript of Panel Discussion,¹ attached as Ex. A hereto. Mr. Perlman responded:

A little bit of history is that this room and the copyright world at large is a very small incestuous community. We all know each other. We all know what is going on. *I knew* that the class action suit was going to be filed by the Authors Guild *before it was filed*. And I approached [Authors Guild Executive Director] Paul Aiken, whom I’ve known for probably 15 years or more and said, “hey, what about us?” And he very politely and diplomatically said that he wanted to keep it *limited to textual materials*, presumably to keep this already complicated situation as relatively uncomplicated as possible.

Id. (emphasis added). Mr. Perlman stated – without qualification – that “photographers are not in this thing,”² and that “[w]hether we will be included in the future is something we can explore

¹ Streaming video of the symposium, including the panel discussion in which Mr. Perlman participated, can be viewed online at: <http://www.kernochancenter.org/Googlebookssettlementrecording.htm>. Mr. Perlman’s statements discussed above occur in Part 3 of the video. A CD of the panel discussion can be delivered to chambers, should the Court so request.

² Indeed, the Class Notice contains a section entitled “**Pictorial Works**.” It clearly states that, “Photographs, illustrations, maps, paintings and other pictorial works in Books...are not covered by the Settlement, **UNLESS** a U.S. copyright interest in these works is held by a Rightsholder of the Book containing these pictorial works.” (emphasis in original). Mr. Perlman’s Columbia Law School symposium comments demonstrate that he fully

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later in this afternoon's program." *Id.* Because he knew the ASMP movants were excluded, he described his "immediate reaction" to the settlement as "okay how do I get a piece of that." *Id.*

These were not isolated comments. In the ASMP's 2008 year end bulletin, published in December 2008, just a couple of months after the settlement was announced, Mr. Perlman is quoted as saying "[w]e had some informal conversations with the Authors Guild when the suit was first filed, possibly to include photographers as well. But in the interest of clarity, the Guild wanted to keep it simple." See ASMP 2008 Year End Bulletin at 8, attached hereto as Exhibit B. Mr. Perlman went on to express the hope that "[w]ithin the context of the current settlement, there may be an opportunity for more participation by other copyright holders, including our ASMP members." *Id.*

Thus, as revealed by Mr. Perlman's own admissions, the Executive Director of the Authors Guild told him years ago that the movants would not be part of the class. These facts completely undercut movants' baseless assertion that plaintiffs and their counsel somehow acted to include and then exclude the movants from the class in order to gain leverage with Google. These facts also expose the motion to reconsider and Mr. Perlman's declaration (Doc. No. 218-2) as a *post hoc* argument crafted without regard to the facts. (See Mot. Reconsider 4.)

Moreover, even if a class action complaint contains expansive language, absent class members have no right to be included in the class ultimately certified by the Court, as explained in *In re Holocaust Victim Asset Litig.*, 225 F.3d 191, 201 (2d Cir. 2000). There, after a settlement class had been preliminarily certified, but prior to final settlement approval, a group of Ethnic Poles sought to intervene, "object[ing] to the certification of a narrower settlement class than the one described in the original complaints." *In re Holocaust*, 225 F.3d at 193. The district court denied intervention, and the Second Circuit affirmed, rejecting "the notion that the broad language of the original complaint in a class action lawsuit vests in putative class members – that is, those who *seem* to be included in the class described in the complaint – a right to be included in the class ultimately certified by the District Court." *Id.* at 200 (emphasis in original). The Court went on to explain:

[T]he broad language of the complaints did not create an exception to the general rule that a non-settling party may not object to the terms of a settlement which does not affect its own rights. *The non-party's only recourse is to file a motion to intervene, and the evaluation of such a motion does not require a court to take into account the language of the original complaint.*

Id. at 201 (internal citations, quotes and alterations omitted) (emphasis added).

understood how the class was defined. See comments of Mr. Perlman in Ex. A ("There is actually one exception – a limited class of photographs and photographers who are covered who are within the settlement class and that is where the copyright owner to the visual material is the same as the copyright owner to the book.").

Hon. Denny Chin

October 5, 2009

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The ASMP Movants Have Suffered No Prejudice And Their Motion Is Patently Untimely.

Each of the intersecting factors as to timeliness of the motion to intervene cuts against the ASMP movants: (1) “prejudice to the applicant if the motion is denied”; (2) “prejudice to existing parties resulting from the applicant’s delay”; (3) “the length of time the applicant knew or should have known of his interest before making the motion”; and (4) “the presence of unusual circumstances militating for or against a finding of timeliness.” *Farmland Dairies v. Commissioner of New York State Dept. of Agriculture and Markets*, 847 F.2d 1038, 1044 (2d Cir. 1988).

First, the settlement does not affect the rights of the proposed intervenors, and they remain free to pursue any claims they may have against Google or anyone else. Although they allege that they will be prejudiced because they will lack “bargaining power” or “resources” to protect their rights (Mot. Reconsider. 6), the Second Circuit rejected a virtually identical argument in *In re Holocaust*. There, the proposed intervenors argued that they would be prejudiced if intervention was denied because “they would face tremendous obstacles in bringing their own lawsuit.” *In re Holocaust*, 225 F.3d at 199. The Second Circuit held “that appellants in this case will face many significant obstacles” did not constitute undue prejudice, and that judicial economy and uniformity of decisions did not militate in favor of intervention. *Id.*³

Second, the parties to the litigation will suffer enormous prejudice if intervention is granted. The settlement is the product of a lengthy and complex arm’s length negotiation process between sophisticated parties and their counsel, in which both sides incurred appreciable expenses. The parties made a conscious decision to exclude photographers and other graphic artists from the settlement, except to the limited extent set forth in the settlement agreement, as described in the Class Notice. Intervention at this time would seriously threaten to disrupt the settlement and approval process, and prolong the litigation, resulting in severe prejudice to the parties and the class members. See *In re Holocaust*, 225 F.3d at 199 (“intervention at this late stage would prejudice the existing parties by destroying their Settlement and sending them back

³ The cases cited by the ASMP movants in support of their claim that they will suffer prejudice are inapposite and, to the extent they conflict with *In re Holocaust*, are not law in this Circuit. In *In re Discovery Zone Sec. Litig.*, 181 F.R.D. 582, 595 (N.D. Ill. 1998), unlike here, the intervenor was repeatedly assured by class counsel that it was included in the proposed class when it was not. It relied on those representations to its detriment. *Id.* In the present case, to the contrary, the ASMP approached counsel for the Author Sub-Class after the settlement was announced for the purpose of seeking representation in order to become included, knowing at that time that they were not so included. *McBean v. New York*, 2007 WL 473711, at *3 (S.D.N.Y. Feb. 13, 2007), was a prisoner rights case, and the court found that requiring the intervenors to file their own actions would be prejudicial because they were “individuals with limited resources.” *South v. Rowe*, 759 F.2d 610, 612-13 (7th Cir. 1985), also was a prisoner rights case, and the prisoner-intervenor would have faced significant prejudice if intervention were not granted: he was a third-party beneficiary to the action in which he sought to intervene, and there were no other parties capable of representing his interest.

Hon. Denny Chin

October 5, 2009

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to the drawing board"; motion to intervene found untimely); *United States v. Pitney Bowes, Inc.*, 25 F.3d 66, 72 (2d Cir. 1994) ("jeopardizing a settlement agreement causes prejudice to the existing parties to a lawsuit"; motion to intervene found untimely).

Third, this action commenced over four years ago and was highly publicized from the outset. From that time through the announcement of the settlement and the notice process, the ASMP movants actually knew to what extent their purported interests might be affected by this litigation. *See Farmland Dairies*, 847 F.2d at 1044 (question is how long proposed intervenor "knew or should have known of [its] interest before making the motion" to intervene); *see generally United States v. Yonkers Bd. of Ed.*, 801 F.2d 593, 595 (2d Cir. 1986) (applicants had notice where litigation was "page one news in the Yonkers local newspaper"). Mr. Perlman's admitted discussions with the Authors Guild prior to the institution of this action demonstrates that the ASMP knew of the imminence of the action and the fact that it would not include his constituency. The ASMP as early as that time could have sought to intervene or file its own lawsuit against Google.

Similar (or much shorter) delays have consistently been held untimely. *See e.g., In re Holocaust*, 225 F.3d at 198-99 (8 months); *Catanzano v. Wing*, 103 F.3d 223, 233 (2d Cir. 1996) (18 months); *Pitney Bowes*, 25 F.3d at 71 (8 months minimum); *United States v. State of New York*, 820 F.2d 554, 557 (2d Cir. 1987) (15 months).

Fourth, there are "unusual circumstances," but here they weigh strongly against intervention. When a proposed intervenor admits to having been fully aware of the issues in the litigation over four years ago, *before* the lawsuit was filed, but sits on the sidelines while it is litigated, thereafter publicly acknowledging that it is not a member of the settlement class, only to seek to insert itself into the settlement nearly a year after it was announced, fundamental fairness requires that the request for intervention be denied.

The ASMP Movants do Not Even Address, Let Alone Satisfy, the Elements Necessary to Warrant Reconsideration.

Finally, the ASMP movants do not even try to demonstrate that they meet the requirements for reconsideration of a motion (they do not), which alone warrants denial of their motion. *See Iglesias-Mendoza v. La Belle Farm, Inc.*, 241 F.R.D. 182, 183 (S.D.N.Y. 2007) ("To prevail on a motion for reconsideration, the movant must demonstrate 'an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice.'") (quoting *Doe v. New York City Dep't of Soc. Servs.*, 709 F.2d 782, 789 (2d Cir. 1983)).

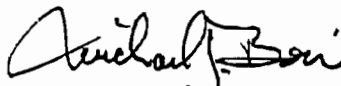
Hon. Denny Chin

October 5, 2009

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For all of the foregoing reasons, plaintiffs respectfully request that the Court deny the ASMP movants' motion for reconsideration. Should the Court request more complete briefing in response to the more than fifty pages submitted by the ASMP movants in connection with their objections and motion to reconsider, we are ready to provide it on any schedule.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Michael J. Boni". The signature is fluid and cursive, with the first name "Michael" and last name "Boni" clearly distinguishable.

Michael J. Boni

cc: Elaine Metlin, Esq.
Shirley Saad, Esq.
Victor S. Perlman, Esq.
Bruce P. Keller, Esq.
Jeffrey P. Cunard, Esq.
Daralyn J. Durie, Esq.

Exhibit A

Symposium, Part 3: Authors and Incentives

Jane Ginsburg:

Our last panelist on this go round is Vic Perlman of the American Society of Magazine Photographers. Remember that the photographers are not included in this settlement and therefore are not part of the book rights registry. So, I guess the first question would be why not?

Victor Perlman:

Thank you Jane. Since I am a lawyer let me start with some disclaimers. First, I am kind of the flip side of the Jule Siegal. I'm speaking solely on behalf of ASMP and its members. I'm not giving you any personal context here. I'm within the class and I'm not even going to tell you whether I'm opting in or out or what I'm doing. The other thing is that anybody who knows me knows I tend to view the world in the context of popular culture, movies, songs and to me the Google settlement is a Jerry Maguire moment. Because I keep seeing Cuba Gooding going show me the money. And I'm kind of a little like Cinderella before the transformation here, because, you know, the photographers aren't in this thing. We have illustrated books but we don't have illustrations. There is actually one exception – there is a limited class of photographs and photographers who are covered who are within the settlement class and that is where the copyright owner to the visual material is the same as the copyright owner to the book. A little bit of history is that this room and the copyright world at large is a very small incestuous community. We all know each other. We know what's going on. I knew that the class action suit was going to be filed by the Authors Guild before it was filed. And I approached Paul Aiken whom I've known for probably 15 years or more and said, "hey what about us?" And he very politely and diplomatically said that he wanted to keep it limited to textual materials presumably to keep this already complicated situation as relatively uncomplicated as possible. There may have been other reasons at play but if I'm sitting in Paul Aiken's chair I am trying to represent my constituents and I can understand why you would want to exclude everybody else from at least the discussion stage of it. There is nothing inherent about visual materials that suggests that they should not have been included and in fact in some limited groups I have mentioned they are. As far as I'm concerned if this is an infringement, if copyrighted material is infringed it is infringed no matter what whether visual or textual. Whether we will be included in the future is something we can explore later on in this afternoon's program.

Round Two

Jane Ginsburg:

For Vic Perlman, do you see the Google book settlement as a possible template for future opportunities for photographers and illustrators?

Victor Perlman:

Sure. Tracy mentioned IFRO. Actually, I was at the annual meeting of IFRO on October 28th I guess it was when Paul Aiken and Pat Schroeder announced the settlement. And my immediate reaction was okay how do I get a piece of that. And this reminds me of when I became a partner in my law firm and I was told verbally that I was being offered partnership and then I got the partnership agreement. You know 350 pages later I am looking at this and going whoa. I think that we are certainly currently actively evaluating the settlement, its effects, possible ways of participating in this solution, in similar solutions, in parallel solutions. I think that no matter how you feel about the situation and the settlement it's inevitable that some system of dealing with the problems that the settlement faces, and gave birth to it, is inevitable and is potentially a win win win situation. The question is as always the devil is in the details. And one of the big issues I look at in trying to become involved in something like this is how to deliver a sufficient body of rights to make the thing viable.

Round Three

Jane Ginsburg:

Vic, you have the last word on this round. What other concerns do you see going forward for your authors?

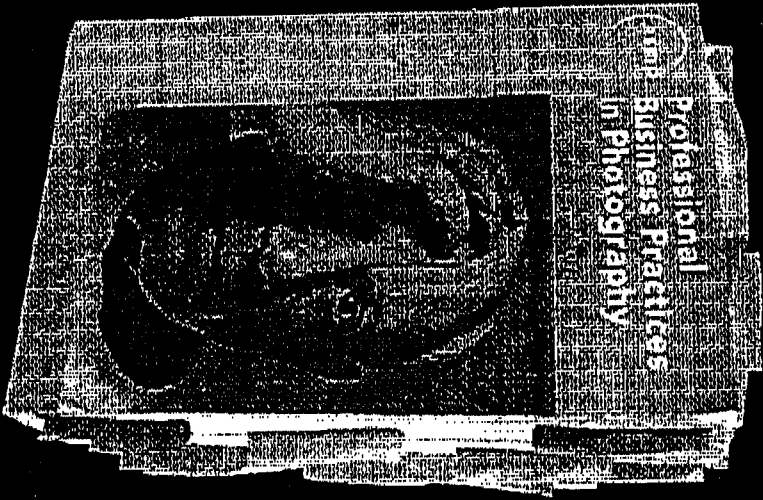
Victor Perlman:

These are concerns. They are not necessarily objections. I signed my partnership agreement. The first is the effect on value. This thing is setting up a valuation for past copying setting up a system and formulas establishing and dividing revenues for future uses. It is doing that for books with illustrations without taking those illustrations into account and I'm concerned about the precedence of that system and how it might negatively impact the valuation of illustrated materials. For past copying we are talking about \$60 a book, \$15 for an insert in my view an illustrated book isn't worth an awful lot without the illustrations. I am concerned that the settlement model doesn't really recognize that. I also have to puzzle about whether all books are truly equal. I keep coming back to my show me the money question. I keep wondering where and whose share does money for photographers come from. Are we going to have to fight with the text authors? With publishers? With Google? With all three? Are we going to create new revenue streams and if so how are those revenue streams going to be affected by everything that has gone on. I am concerned about granting a virtual monopoly. And that pun is completely intentional. Consolidation in the publishing field has consistently led to decreasing competition, smaller numbers of markets and outlets, and these have

resulted in decreasing compensation for photographers and I have to wonder would this settlement be the ultimate example of that trend. I am concerned about security issues of access to and use of visual materials. Once someone has a digital file in most cases that genie is out of the bottle. I am also concerned that my little red light just went on so I am going to shut up.

Exhibit B

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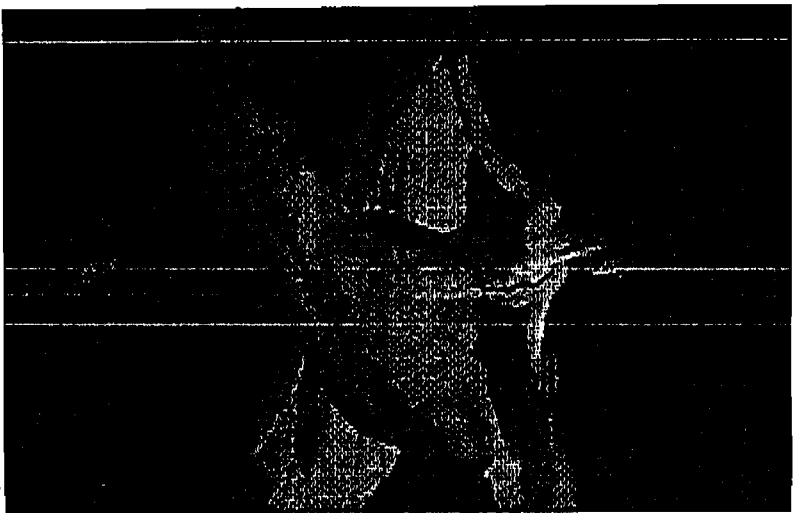
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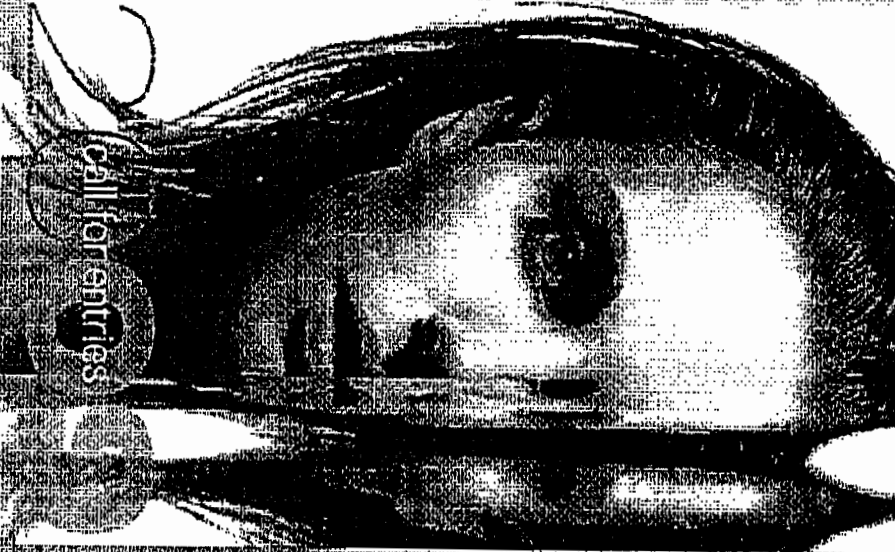
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PRESIDENT'S LETTER



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GOING THE DISTANCE

near ASMP member Lorie Cole last month at the PDN Phoenix Expo. She told me of a recent experience. If you wish to go but go alone if you wish to go, let go together. But never give up the person with whom you wish to go.

In 2002, I was part of the ASMP Chapter Relations Committee. At the time, I was a co-president of the Ohio Valley Chapter. The executive members were invited to participate in a brainstorming group with the help of

improving chapters. I was sure that the moment was ripe for change when our guidance from the ASMP came in the form of a letter. The letter was full of ideas and

we had some chapters. I took no action at the time. I was sure that the moment was ripe for change when our guidance from the ASMP came in the form of a letter. The letter was full of ideas and

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Dr. Robert J. Roberts, President of the ASMP, with other members of the ASMP Executive Committee at the ASMP National Conference in 2002.

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ASMP Bulletin 2



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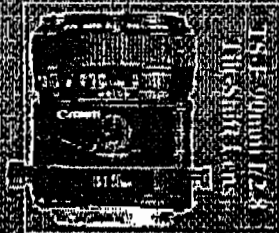


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[DIRECTOR'S COMMENTARY]

HOW'S
BUSINESS?

As a business, I ask this question at the end of each year or my ASMP member call and consultation. I try to keep my mind on the pulse of our membership so that the ASMP can better provide service, information and education that are relevant to our needs. Unless you live in a core market, I cannot give an answer that is realistic with the economic downturn we are currently facing. The full impact on commercial photographers has yet to be felt. I still believe a slowdown is coming. Visual artists do, in fact, offer out the arena, ensure your continued success and be prepared for the upturn when it comes. The current decline, while serious in its depth and scope, is not unique in its effect. Over the past 25 years there has been similar downturns and we have survived.

Consider this: In 1994, for example, while I am not pretending that you are a professional, I would say that you should simply buy what you need or properly maintain your business and not go into debt at all. Many self-employed photographers are generally successful in their ability to business and know how to deal with the lean times. The right kind of business is simply put. About buying things you don't really need.

Consider this: In 1994, for example, while I am not pretending that you are a professional, I would say that you should simply buy what you need or properly maintain your business and not go into debt at all. Many self-employed photographers are generally successful in their ability to business and know how to deal with the lean times. The right kind of business is simply put. About buying things you don't really need.

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more favorable rights position if you have previously agreed to license. Try to understand the value of your work and the value of what you deliver to clients. While photographers may establish themselves independently, ASMP members have unlimited access to the professional work shown in the ASMP licensing guide for practical insights about what other photographers have charged for similar work. Additionally, all photographers can profit from the experience of established professionals by posing a question to the ASMP's proactive database.

Small time artists are not made to. The industry has made distribution of images easier than ever before. Think about how many images you have seen in the past few years. Think about how many images you have seen in the past few years. Think about how many images you have seen in the past few years.

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BEST OF ASMP
THE FOURTH ANNUAL
IS COMING IN SEPTEMBER 2009.
Everyone is snap happy with anticipation for the Best of ASMP 2009.

The 20 photographers selected for the 2009 Best of ASMP have achieved a lot in their art and career. They have won their artistic accomplishments, their valued equipment, their clients, their work, and their lives—in detail, in every way. They have won their artistic accomplishments, their valued equipment, their clients, their work, and their lives—in detail, in every way.

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For current advertising rate information: In the Northeast, East and South contact: advertising@asmp.org or by phone at (212) 873-5892. In the West, Midwest and Canada contact: richard.warrell@asmp.org or by phone at (707) 436-9200.

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HOW'S BUSINESS?

[illegible]

Entrepreneur financial responses. While I am not reporting that you are all participating, I would say that you do look simply that way. You are all participating in your business and not as passive owners as in property, common real business and not as passive owners as in property. You are all participating in your business and not as passive owners as in property. You are all participating in your business and not as passive owners as in property.

As a result, the private delivery services' clients are not simply left to work with the carriers they choose. Most often, these mail firms form partnerships with the carriers, working with one and possibly doing with several. As a result, the private delivery services' clients have no choice but to determine if the mail firm's partners are the best carriers for their business. As a result, the private delivery services' clients are not simply left to work with the carriers they choose. Most often, these mail firms form partnerships with the carriers, working with one and possibly doing with several. As a result, the private delivery services' clients have no choice but to determine if the mail firm's partners are the best carriers for their business.

Continue your marketing efforts. Don't stop making and sending newsletters. The lead time on mistakes with a newsletter is minimal. You need to explore the Web and subscribe to publications with an eye to learning new ideas, especially ones that relate to your business. If you don't do it frequently or simply can't do it, then ask someone who can. You need to have already explored what opportunities exist for you, and to have already explored what opportunities exist for your competitors. If you start when the sword catches, there will be no time to plan. It's like a column of fire burning from beneath your feet.

There's nothing in the way of there it doesn't the transportation to and from the bus to get the people involved. Promises of future work or higher pay for the same work. Who should a chief pay for more or give

[illegible]

Such new cultures are essential. The Internet has made distribution of digital content easier than ever before. Think about how easy it is to create your images, use a software package through the use of personal computers and to your target audience.

By entering below your sign, above an e-mail address and a verification code, you will receive the print position of tomorrow's headline in minutes. For additional conditions or other free terms, please visit www.zeitung.de. Do not send any payment information to see an advertisement in any form on an editorial content, but we reserve the right to change the position of the headline without notice. The headline will appear in the headline of the next day's edition. The headline will appear in the headline of the next day's edition. The headline will appear in the headline of the next day's edition.

Use the network and resources provided by ASAM through our 33 chapters Web site, and additional programs. You can't go to your personal web site without leaving a trail. Publishers need access to the ASAM Professional Development bank.

Find out the ASMP licensing guide at
www.asmp.org/licensing.

Now we can start, each click to the ASCII and let us help process through this difficult time. It

26th Nov
 From the Director, NSW
 Department of Education
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From the Director, ASW
Occupational Safety and Health

BEST OF ASMP 2009
THE FOURTH ANNUAL BEST OF ISSUE OF THE ASMP BULLETIN
IS COMING IN SEPTEMBER 2009.
Everyone is snap happy with anticipation for the Best of ASMP 2009.

Everyone is snap happy with anticipation for the Best of ASMP 2009



to have opinions stated by the faculty and the ASAP are as follows. Let's hope we're all feeling a little bit better about where they stand on this subject. The United Faculty of the ASAP is not a union, but they work with and against the ASAP in ways that are not always clear. I hope to find out more about this in the future.

[illegible][illegible]

For current advertising rates information in U.S., Northeast, East and South contact
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AMERICAN SOCIETY OF
MEDIA PHOTOGRAPHERS

CALL FOR NOMINATIONS

The nomination period for the national board of directors will be open from December 1, 2008, to December 31, 2008.

Any general member may declare his or her candidacy for the directorship. The election will be held from February 15, 2009, to March 15, 2009. Winners will begin their terms at the next regular board meeting following their election. Expected to be scheduled for April or May 2009. Five (5) directors will be selected for a three (3) year term.

A director's term is three (3) years. Each candidate must be willing to serve a minimum of two (2) board meetings per year, which usually involves a Friday, Saturday, and Sunday. Other duties are assigned by the board to individual directors.

If you wish to declare candidacy, please complete the following and fax or mail to:

ASMP National
150 North Second Street
Philadelphia, PA 19106
Fax: 215-451-0880

I declare my candidacy for a seat on the national board of directors. I am a general member of ASMP and understand that the commitments of a director of ASMP include having to attend a minimum of two (2) board meetings a year, as stated above.

SIGNATURE
NAME
DATE

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AMERICAN SOCIETY OF
MEDIA PHOTOGRAPHERSVolume 22
November 27/Year End 2008

The American Society of Media Photographers, Inc.

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Second Vice President: Richard Kelly
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West Coast, Kist
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NEWSLINE

PDN PHOTO PLUS RECAP
Busy Autumn Weekend in New York

The ASMP was very active in right during the PDN Photo Plus event. October 21-22, 2008. Executive Director Eugene Mages and other ASMP leaders, a public relations officer, and other ASMP members, which is likely to result in a new member base in 2009. Through out the weekend, the ASMP had a lot of ASMP members working in the ASMP booth, and ASMP members were also active in the ASMP booth, and ASMP members were also active in the ASMP booth.

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Full Width: 100%



Full Width: 100%

[YEAR END 2008]
Order out the NEWS
Find an Assistant function
of the ASMP with the
Web camera function on
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—Jill Kist



[YEAR END 2008]

GOOGLE SETTLES COPYRIGHT SUIT WITH AUTHORS AND PUBLISHERS

A major victory for rights holders of creative works, Google has agreed to settle a class action lawsuit challenging its scanning and digital distribution of millions of books. The suit, filed by a coalition of authors and publishers, sought to force Google to stop its "Project Gutenberg" effort to digitize and make available a vast collection of books.

In September 2005, by the U.S. District Court for the Southern District of New York, Google was ordered to stop its Project Gutenberg effort. The court found that Google's scanning and distribution of books without the permission of the copyright holders was a violation of the Copyright Act of 1976.

Google, however, had already spent millions of dollars on the project and had a large collection of scanned books. It sought to continue its efforts, but the court ordered it to stop.

Google eventually agreed to a settlement with the authors and publishers. The settlement allows Google to continue its Project Gutenberg effort, but with certain restrictions.

The settlement also allows Google to make its scanned books available to the public, but only if they are in the public domain or if they are licensed by the copyright holder.

The settlement is a landmark decision in the history of copyright law. It shows that Google is willing to negotiate with rights holders and to respect their rights.

APPROACHING DEADLINE FOR THE ASMP ARNOLD NEWMAN PRIZE

The ASMP annual award for the best photograph in the world is quickly approaching. On December 19, 2008, the ASMP will announce the winner of the 2008 Arnold Newman Prize.

The prize is named after Arnold Newman, a pioneer in portrait photography. It is the highest honor in the field of photography.

The prize is awarded to the photographer who has created a photograph that is both technically and artistically outstanding.

The prize is awarded to the photographer who has created a photograph that is both technically and artistically outstanding.

ASMP BOARD APPROPRIATES \$85,000 CONTRIBUTION TO PLUS COALITION

The ASMP Board has appropriated \$85,000 to the PLUS Coalition, a group of photographers and publishers who are working to protect the rights of photographers.

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A NEW ALTERNATIVE FOR ONLINE IMAGE LICENSING

A recent entry into the online image marketplace, Imagoscan offers several services to help photographers display and license their work.

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ASMP OFFERS APPLE PRODUCT DISCOUNTS

As a member of the ASMP, you are eligible for special discounts on Apple products. This includes the iPhone, iPad, and Mac. The discounts are available to all ASMP members who are also members of the Apple Developer Program.

Let us help you capture it.

The Nikon D7000 is a professional DSLR camera that offers a wide range of features and options. It is a great choice for photographers who want to take their photography to the next level.

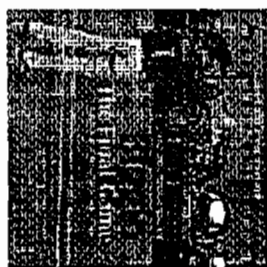
DENN CAMERA

DENN CAMERA is a leading retailer of cameras and photography equipment. They offer a wide range of products and services, including camera rentals, repairs, and more.



asmp
AMERICAN SOCIETY OF
PHOTOGRAPHERS

[BOOK LOOK]



1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

BIGGIO: THE FINAL GAME

Professional baseball player Craig Biggio has always been a league of his own. It was when pro athletes began suing for the first time of a major league contract, Biggio filed his own pro lawsuit. The *Wall Street Journal* called him "America's new lawyer." Biggio gave extra to *Time* magazine, *Newsweek*, and *Rolling Stone*. In the process, he earned a family. In the process, he earned a *Time* magazine, *Newsweek*, and *Rolling Stone* cover. The last best record of baseball's history.

There were problems in the record's unusual format, too. Among other "quirky" misprints, it said "the African San" (it should have said "the San people") and "the San people" (it should have said "the San people").

He told me of going down to a punk show, "the first time I ever went to a punk show," and he said, "I was looking for the one that was on the cover of the *Record*." He said he went to the show and he said, "I was looking for the one that was on the cover of the *Record*." He said he went to the show and he said, "I was looking for the one that was on the cover of the *Record*."

COOLING THE SOUTH: THE BLOCK ICE ERA
BY ELL MORRIS

the big black industry. She collected images, photographs and unique documents. Also, "for the past 10 years of it, Morris lived for her art. It was a dream of hers to put in her library a record for what

More significant, *Myrica phaeographa* var. *trichocarpa* and *Myrica* ssp. *trichocarpa* were introduced and became established in the 1840s, and the company introduced *Myrica* ssp. *trichocarpa* in the 1850s, and the company introduced *Myrica* ssp. *trichocarpa* in the 1860s.

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ALNFBG-LECTIN 7C

COOLING THE HOTT



Accepted: 1993
12 pages, 20 figures, 4 tables
English, 8 figs
65710-2075200
ISBN: 0770703320

MARKINGS PHOTOGRAPHS BY MAXWELL MACKENZIE

A child imagines absurd. Some rebellious nature needs, either to reduce main contradictions or to

[illegible]

One striking development revealed records of orange surface mining villages and a huge rock surrounding a barren red forest. The instrument of destruction, a large earth-mover, sits near the road.

The book's parties often highlight a two-variant of the same social view—that a highly corrupt corrupt, run full-blooded capitalism is followed by a more limited full-frame image, surrounded by white and example created by not.

The effect of the scattering is to be engendered by the working earth. The combined with individual quotes from paleographers and poets such as Plato, Langston Hughes, and Dylan Thomas creates a rich landscape in which viewers can otherwise themselves and thoughtfully.

-16-

[illegible]

...and the

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CHAPTERSPOTLIGHT

ASMP ST. LOUIS AND THE 24-HOUR CURE

ASMP ST. LOUIS IS A CHAPTER ON THE MOVE, with a strong focus on artistic, creative and social events. Not too long ago the group was on the ground floor, literally, in the old building that housed the St. Louis Art Museum. They were both excited and excited to move.

From the old building, they moved to a new space in the old building. The new space is a 24-hour cure, a place where people can come and get help. The new space is a 24-hour cure, a place where people can come and get help.

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Example of a person in the ASMP St. Louis chapter. The person is sitting at a desk, looking at a computer screen. The person is wearing a dark jacket and a light-colored shirt. The desk has a lamp and some papers on it.

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ASMP ST. LOUIS 12

OUTSTANDING VOLUNTEERS

JAMIN LEOPOLD, ST. LOUIS CHAPTER

ASSOCIATE MEMBER STATUS has been awarded Jamin Leopold for his outstanding work in the ASMP St. Louis chapter. He is a member of the ASMP St. Louis chapter and has been awarded Associate Member Status for his outstanding work in the ASMP St. Louis chapter.

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ASMP PROSURANCE FOR THE PROFESSIONAL PHOTOGRAPHER

From studio insurance to automobile and homeowner's coverage, Taylor & Taylor and Fireman's Fund Insurance Companies have been taking care of the insurance needs and problems of artists for more than 35 years.



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ASMP ST. LOUIS 13



BY VICTOR S. PERLMAN

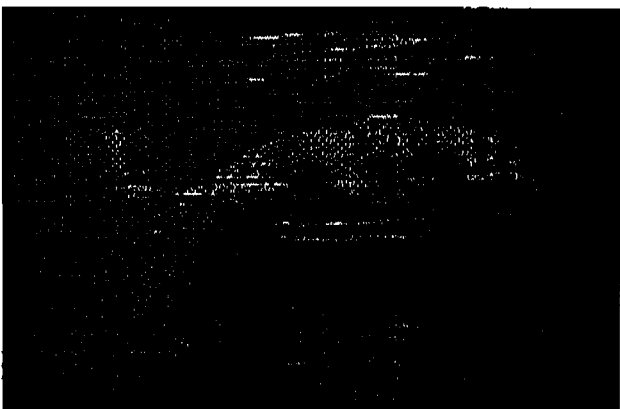
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CONTRACTS**
GET IT IN WRITING
AND DON'T BE AFRAID
TO NEGOTIATE!

the ASCE is a "voluntary" membership organization, not a "for-profit" corporation. The ASCE is a "voluntary" membership organization, not a "for-profit" corporation. The ASCE is a "voluntary" membership organization, not a "for-profit" corporation.

[illegible][illegible]

Encompassing the first 10 years of the twentieth century, the *Journal of the American Medical Association* (JAMA) was the first of the new medical journals to appear. It was founded in 1900 by a group of physicians who were dissatisfied with existing journals. The JAMA was the first of the new medical journals to appear. It was founded in 1900 by a group of physicians who were dissatisfied with existing journals. The JAMA was the first of the new medical journals to appear. It was founded in 1900 by a group of physicians who were dissatisfied with existing journals.

[LEGAL REVIEW]



Maranda L. Blanton, owner, was 41 years old on the date of the offense.

There are two problems with this. First, the probability of getting a 100% grade is not 1/1000. It is 1/1000 if you are not a professor. But if you are a professor, the probability is 1/100. Second, the probability of getting a 100% grade is not 1/1000 if you are a professor. It is 1/100. So the probability of getting a 100% grade is 1/1000 if you are not a professor, and 1/100 if you are a professor. This is the correct answer.

[illegible][illegible]

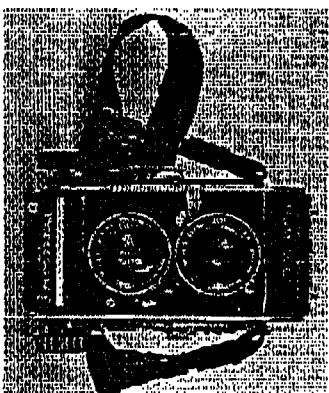
BY CHAD MAREK

CAPITALIZE YOUR CAMERA COLLECTION

With its compact digital camera, the pocket-sized iStudio

**FAST FORWARD
FROM FILM**

The users report that the period from the outbreak of the working conditions, resulting in a change of behavior, is approximately 120 percent. The percentage of technological advancement and client financial increase was 120 percent. The design code for the Nikon 35 is currently a decision, not just this collection has been reduced to less than two years. While Nikon were working on the Nikon 35, the Nikon 35 was not yet in the market. The Nikon 35 was not yet in the market. The Nikon 35 was not yet in the market.



As shown in Table 1, the average values of γ_{eff} for the four different samples are 1.48, 1.47, 1.46 and 1.49, respectively. The values are very close to each other, and the average value of 1.475 is used in the subsequent calculations.

As photography speeds move into new areas to keep up with demand, expanding their uses, reflect gun taxes are critical to generate needed income. We set the system for recording the capitalization in used equipment riding on a photographer's credit.



energy in the process of being released from a few dozen molecules of glucose. In 1929, Albert Einstein, who was already a well-known physicist, published a paper in which he showed that the mass of a body is equivalent to the energy it contains, and this provides a key to more powerful nuclear energy. Albert Einstein's contribution to the development of nuclear energy is also one of the most important in the history of science.

TRADE IT IN
This is certainly the fastest and least complicated way of liquidating your stock. If you need cash now and your great idea for a new type of vehicle is in your type, this is a very viable option.

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SELL IT YOURSELF ON EBAY

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ALPHABETICALLY

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ALLEN & SUDLEY CO.
MELROSE PARKWAY-EN

WINDS OF CHANGE

Comparing a photographer's career to a self-powered antenna is a way engineers describe it, but it's still a good analogy when thinking about plotting the course of your photography business.

PLAYKATIONAL FOCUS

in relation to the phenomenon concerning psychoanalysis and the way in which it had been used in the past. It is possible to say that there was a lack of interest in the mind, and that this was seen merely as a means of understanding the world, and that this was seen merely as a means of understanding the world. It is possible to say that there was a lack of interest in the mind, and that this was seen merely as a means of understanding the world, and that this was seen merely as a means of understanding the world.

By slowing down, you can change your point of view. The photo becomes not just the subject of the photograph, but the subject of the viewer's experience. By making the world a subject, you're making the world a part of you. The difference can change the way the world is seen and how it is lived. The difference can change the way the world is seen and how it is lived. The difference can change the way the world is seen and how it is lived.

CHANGING TACK

The value of the photograph is determined by the degree to which the image is a good representation of the original. The more the image is a good representation of the original, the more the value of the image is determined by the degree to which the image is a good representation of the original.

box that the wind violently shook against heat and moisture. The ship had already put 10 emergency blankets in the hands of consumers for each \$100,000 of those consumers are expected to be the country's smoking cesses.

[illegible]

What is your moving strategy from 2008 to 2009 construction, how does a company expect and regarding his or her strategy?

reduced, "it's both real and especially not necessary for anyone with a 1500-psi pocket cancer." If you can't answer all, it's like trying to seal round your design in a wall with a house which way the wind is blowing.

DETERMINE YOUR POSITION AGAINST THE PREVAILING WINDS

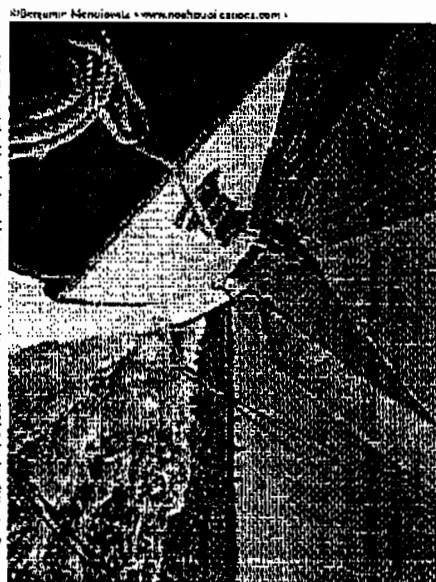
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multiculturalism and diversity, and the importance of being inclusive and embracing the differences that exist within our workforce. We will continue to work with our employees to ensure that we are providing a safe and healthy work environment for all of our employees, and that we are providing a fair and equitable workplace for all of our employees. We will continue to work with our employees to ensure that we are providing a safe and healthy work environment for all of our employees, and that we are providing a fair and equitable workplace for all of our employees.

But no alone is it, thinking about things will not get you where you want to go. Actions must be taken to harness that power. It's not for nothing that the best of our scientists and engineers prefer to work in teams. It's not for nothing that the most effective way to improve an organization is to adopt a highly changing structure. Just as it is not for nothing that the best way to learn is to teach.

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REMEMBER......it's not the ship that gets the sailor safely to the shore, nor is it the equipment that makes a photographer; it's the eyes, the intuition, and the willingness to change course, which get both to safe harbor.



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OSA WITH CAROLYN POTTS

For those who were unable to attend, we've prepared a Q&A phase with the main of Parry's marketing insights, highlights of which are featured here. To read the complete Q&A phase visit the ASMP Web site at www.asmp.org/posters.

[illegible]

and the world of your target, it can be a correct thing that requires the target's attention, they will be much more likely to accept your request.

many executives are concerned who are greeted with a solid list of harsh problems. Look at it as you wish, but it's a sure indicator of a problem that has taken on a hard wall; a complicated one that you're never going to solve. Change your attitude from "I'm just a problem solver" to "I'm a creative problem solver" and you can do it. And you can do it every day of your life."

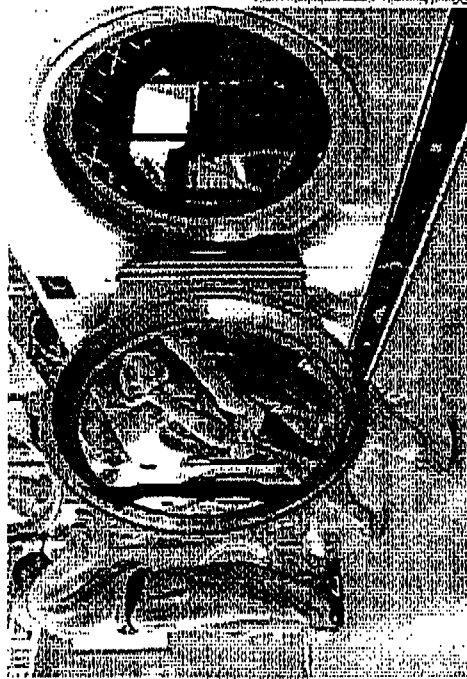
Don't stress about money in the short term. If a more important task needs your attention, let others know you need to implement your strategy.

ally. There are so many ways to get help in your area. For example, you can go to a local business, school, or even making a bet with a friend to see who can do it first. Or you can go to a local business, school, or even making a bet with a friend to see who can do it first. Or you can go to a local business, school, or even making a bet with a friend to see who can do it first.

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RIGHTS FROM ANOTHER WORLD

ASMP Members Talk About How Their Previous Careers Led Them to a Life Behind the Lens



1. The first step in the process of creating a new product is to identify a market need. This involves conducting market research to determine what consumers want and what problems they are trying to solve. Once a need is identified, the next step is to develop a concept that addresses that need. This is often done through brainstorming and sketching ideas. The third step is to create a prototype, which is a physical model of the product. This allows the designer to test the product and make improvements before moving forward. Finally, the product is manufactured and distributed to the market. Throughout this process, it is important to keep the target audience in mind and to iterate on the design as needed.

But the most interesting part of the comment was the last sentence: "I don't know how many of these people do make the trip, but I think it's a shame of mine." The author, who is a well-known photographer, is a man who has been asked to take successful photographs of the world's most famous people. He is a man who has been asked to take successful photographs of the world's most famous people. He is a man who has been asked to take successful photographs of the world's most famous people.

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the company's 1997 sales. "We've been able to get a number of different types of equipment, and we've been able to get a number of different types of equipment," says the president. "We've been able to get a number of different types of equipment, and we've been able to get a number of different types of equipment."

[illegible]

From the 1950s to the 1970s, a large number of immigrants who related their field of study to their profession came to the U.S. to work. In the 1980s, it was not work but to better the skills that they were offered. In 1984, it was not work but to better the skills that they were offered. In 1984, it was not work but to better the skills that they were offered.

Gregory was disappointed that the job would come as a surprise to one of his closest associates following years as a rival in Europe and a

[illegible]

Abstracted during the 1950s, the system is valuable and meaningful enough for the next generation. Our final goal, however, has been to provide the next generation with the tools and techniques that will enable them to do what we did. We have not been able to do this, but we have tried.

Engineering a Switch: Paula Burke's career switch was perhaps the most dramatic, from her former role as a corporate engineer with Hewlett-Packard to her current position as a senior research scientist at Chemtronix. "I had my engineering career suffer my first phone-boom setback in 1990 when I was laid off," she says. "I was looking for other ways to get into the field. The last time I gave myself the opportunity to go back to school was in 1992, when I enrolled in a two-year program to get my PhD in physics. I knew in my heart that I would never give up on it. Burke joined Light and Precision Corp. June 24 last and for the moment in time. The last part was a push, and I allowed me to submit high-quality images for a public exhibition. "I also received my certificate that allowed me to open my own business," she says.

[illegible][illegible]

Building a New Business Network: For entrepreneurs with other photographs, the Internet has become a real AMP chapter to be very concerned. The monthly meeting always had to new ideas as well as feedback. In the last week, this type of networking can be very useful to photographers in transition of new starting out, and can enter new markets and the place of normal relevance. And this is the only way to get a new business idea. In the last week, for several photographs for one day, a weekly training program. Early in this year, the business is somewhat placed on some other places to encourage the business. In a weekend, a weekend can be designed to help people realize the business, and it is a working course. An AMP chapter, the idea is to do the AMP chapter program useful, and to make other photographers who can be seen.

The Hustler to Independence: Knowledge, Power, or Thrill? The Hustler's two main characters, the two protagonists, are both men who are not fully prepared, financially and psychologically, for the challenge of the Hustler. The Hustler's two main characters, the two protagonists, are both men who are not fully prepared, financially and psychologically, for the challenge of the Hustler. The Hustler's two main characters, the two protagonists, are both men who are not fully prepared, financially and psychologically, for the challenge of the Hustler.

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A freelance journalist in Washington State, Amanda Buhazar writes columns for *Nature*, *Business Month*, the *Toronto Star*, *Nichelle* and many other magazines. She can be reached at: amibuhazar@comcast.net.

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AMERICAN SOCIETY OF
PHOTOGRAPHERS

[PORTFOLIO]

FOCUS PHILADELPHIA PORTFOLIO SHORTLIST

CHAPTER MEMBERS FULFILL THEIR DREAM ASSIGNMENTS

"Don't wait for the call," the assignment read. "Go ahead, your dream assignment." This challenge was put to members of the ASMP's chapter in chapter 201, as evidenced by the images selected for the chapter's members' assignment.

Each year, chapter members submit more than 400 images to be selected for awards by a panel of five judges. In 2011, the ASMP Philadelphia chapter members' assignment was to create a series of images that would tell the story of the city of Philadelphia. The assignment was to be completed by the end of the year.

While final decisions have yet been made by the judges, our selections offer an eye-opening view. The winning entries, as determined by the judges, will be displayed in an exhibition this winter at the University of the Arts. The exhibition will also include additional works from the ASMP Philadelphia chapter members' assignment.

For more information, visit the ASMP website at www.asmp.org/philadelphia.

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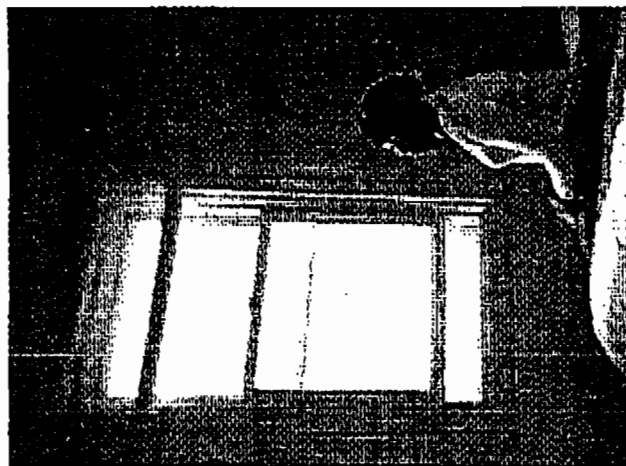
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August 1st, 1911, in New York City. The photograph was taken by a man named Lewis H. Mumford. It was a photograph of a person standing in a dark, industrial setting, possibly a factory or warehouse, with large pipes and machinery visible in the background.

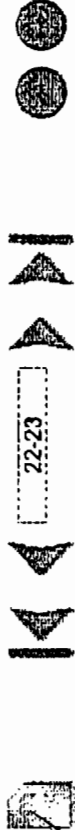
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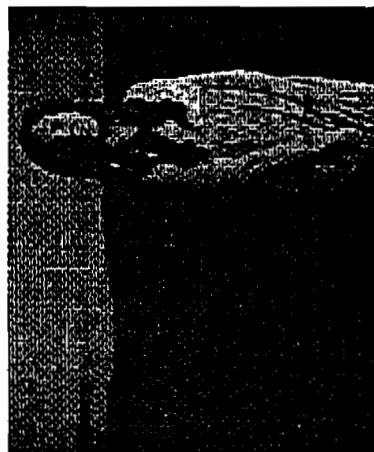
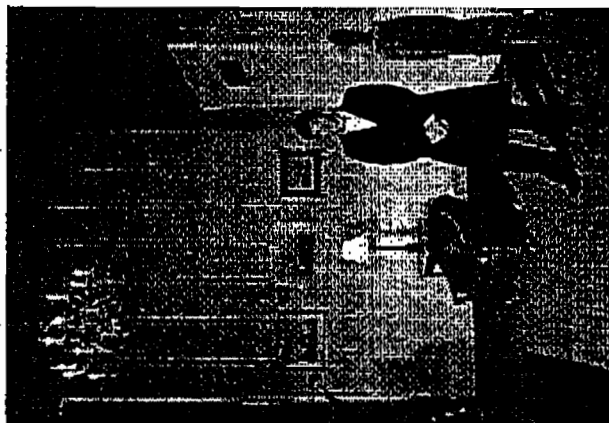
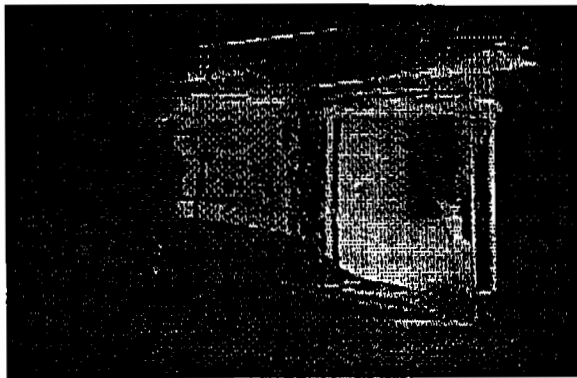
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the Scotch Oat grows early

SHOT Z A



CARY HERZ'S GROUNDBREAKING ASSIGNMENTS

quinta de
Storby, se ha ido a vivir a casa de sus padres en

Herz's photography film will become part of collection at the New Mexico Palace of Governors. Photo Archives and the Ethnic Gallery Women's History Archives, The City Ethnic Photography Scholarship Award was also recently established by the New Mexico Arts Council. Donations to this fund can be made c/o Sandra Schaefer, New Mexico Arts Council, 200 N. 15th St., Santa Fe, NM 87501.

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and her early years by photographing the life of women's liberation movement for the magazine as her documentation of female problems. Los Angeles writer Peter Dinklage noted New Mexico's "exploitive society that had a rare knack for finding challenging problems and groundbreaking assignments." A past president of the ASMP's New Mexico chapter, Clark's supportive demeanor and positive energy were well-admired by her photo-graphic peers.

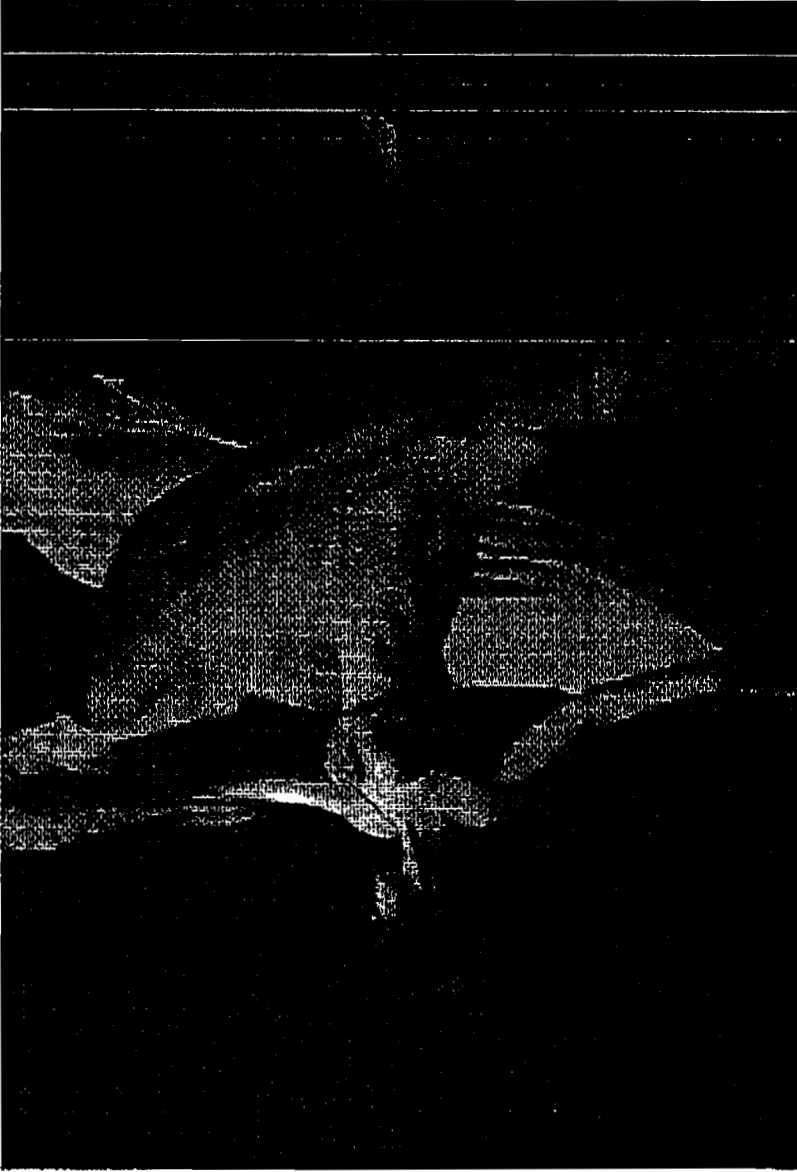
Per latest book, *New Mexico's Cynops-Ang*, winged lizard was removed in the *ASAP* Bulletin fall issue.

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CHAPTER MEMBERS FULFILL THEIR DREAM ASSIGNMENTS
WINDS OF CHANGE
IS IT HURRICANE SEASON IN THE PHOTO BUSINESS?
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