

# ASMP Bulletin

MARCH 2002



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# ASMP Bulletin

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## THE PURPOSE OF ASMP

To protect and promote the interest of photographers whose work is for publication  
To promote high professional standards and ethics  
To cultivate friendship and mutual understanding between photographers

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### OUR COVER

Todd Powell made this image in Sun Valley, Idaho. See page 17.

# NEW, IMPROVED SERVICES

*Changing times call for new strategies* BY DAVE HARP

Last summer, Richard Anderson, a corporate, architectural and theatre photographer from Baltimore and former president of the ASMP chapter here, leaped across the digital divide and bought a high-end digital camera. He is a voracious reader of trade and financial periodicals, a thorough researcher and is well-connected to the photographic community both locally and nationally. As you might guess from his credit on the photo that accompanies this column, we are also friends and we share studio space in an old firehouse.

When it comes to business, this trained economist makes no decision lightly, so when he started shooting digitally I paid close attention. Within three months, Richard had convinced me to follow the digital path. The change from film-based photography which we had practiced for a combined 60-plus years, to digital was at the same time exhilarating and painful for both of us. The joy came from the heretofore impossible speed combined with eye-popping quality and control we'd never dreamed of. The pain came from the hundreds of hours spent learning a completely new technology, dealing with questionable software and recalcitrant computers, and the long, steep slog up the learning curve. There were times when both of us were ready to quit and during one low period I seriously considered tossing my Mac G-3 out my second floor window.

This same scenario is undoubtedly happening to photographers across the country. It's one of the many changes we photographers are dealing with in an industry that barely resembles the publication photography business of a decade ago.

ASMP is undergoing some major changes, too. At the end of this year Dick Weisgrau is stepping down as executive director after 15 years of excellent service. Although we will remain steadfast in our roles of legal, economic and social advocacy for photographers, board and staff are now considering additional services for ASMP members.

We want to improve our ability to generate, gather, edit and disseminate information to our members by making vast improvements to our ASMP.org Web site. We want to provide direct, money-in-your-pocket services like an even better *Find a Photographer* program and free business software for members that could be downloaded from the site. And we want to strengthen our chapters, which provide the means for us to share ideas in local communities across the country and which serve as impor-

tant portals for new members.

Elsewhere in this issue of the *Bulletin*, national board member Woody Packard addresses the concept of change in our businesses, our profession and our Society. He makes a strong case for our need to face the inevitable changes together. "Although we like to exaggerate our differences," he says, "these are times when it's painfully obvious how much we have in common."

In 1989, the general membership voted in favor of a dues increase by well more than the necessary two-thirds majority; they voted to increase dues for general membership by \$50, from \$225 to \$275. That is where membership dues have stayed for 13 years. In 1989, a new executive director was struggling to get the *Bulletin* out to members on a regular basis, ASMP was working without a staff attorney, we didn't have a communications director and our members had no means for quick access to information. We've addressed those needs and we're in the process of addressing more needs identified by our members. At last fall's meeting in Philadelphia, the board authorized a referendum for a \$25 dues increase, empowered the executive board to determine the timing for the referendum and asked staff to make the necessary arrangements in compliance with our constitution. That time has come and the referendum will take place this spring.

During the past 13 years, the photography profession has been transformed in ways both profound and superficial. The most prudent way the individual photographer can cope with those changes is to recognize all that we have in common and to act in concert to improve our collective lives. Saying no to a bad deal is a lot easier when those around you are doing the same.

ASMP will continue to be an effective vehicle for collective action so I hope you will dig a little deeper into your pockets and approve the \$25 dues increase. I assure you that your dues will continue to be a good investment. ∞



**Dave Harp**  
**ASMP president**  
**and chairman of the board**

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# KELLY WINS

*Court affirms copyright law on the Internet* BY PETER SKINNER

Copyright owners worldwide now have case law on their side in the battle against image search engines that display images on their sites without permission. That is the crucial outcome of the *Kelly v. Arriba Soft* (now known as *Ditto.com*) decision handed down on February 6 by the Ninth Circuit Court of Appeals which ruled in favor of photographer Leslie Kelly in his copyright infringement case against Arriba Soft. The appellate court remanded the case back to the US District Court, Santa Ana, Calif., for determination of damages.

Ditto.com, formerly ArribaVista, provides a Web site that uses automated Web-crawling technology to search the Internet for photographs and then displays those photos, literally millions of them, in searchable form on its Web site. By clicking on a thumbnail the user could view a large version of the same picture. This was done at various times by means of either "inline linking" or "framing" without any permission from the photographers, such as Kelly, or from the owners of the Web sites from where the photos came.

When Kelly sued for copyright infringement, a U.S. District Court judge in Southern California ruled against him, saying that this was a case of fair use. ASMP was outraged at that decision and arranged for legal representation for Kelly's appeal. ASMP also filed an amicus curiae brief in his support. The decision in this case affects all ASMP members and all the owners of Web sites such as Webshots, Alta Vista, and similar sites that give viewers access to photos without permission from the copyright owners.

"Photographers everywhere should be applauding this decision," said ASMP president Dave Harp, who pointed out that ASMP has been supporting Kelly and his legal team from the time the case was filed in 1999. "This is a precedent setting decision and while we creators have seen it as a clear case of copyright infringement all along, it's heartening to know we now have

the law on our side," said Harp. "ASMP, along with other trade organizations, have supported Leslie Kelly and his legal team and it is results like this that highlight the need for unity in fighting such battles."

Harp also emphasized that ASMP had played a key role by initiating the participation of ASMP's copyright counsel, Charles Ossola of the Washington, DC, firm Arnold & Porter, in the case after a district court had ruled in Arriba Soft's favor. "Chuck, one of the most respected copyright attorneys in the country, spearheaded the appeals process before the Ninth Circuit, and on a pro bono basis. Photographers everywhere should appreciate the legal strength that ASMP can harness for critical cases like this."

## A VITAL REVERSAL

"As has been reported before by ASMP's general counsel Victor Perlman, this was an appeal of a decision in the US District Court in Southern California that held that Web site operators could scour the Internet, collect every photograph they could find, put those photographs on their sites for anyone to access, and deep link to the photographers' Web sites, without permission and without violating copyright law. If this decision was not reversed, every photograph on the Internet would have been fair game for fair use. Fortunately for all of us, the decision has been reversed," said Harp.

Harp added that ASMP's Legal Action Fund, a financial war chest built up largely by voluntary contributions from ASMP members, had been a valuable resource in this and other recent legal activity.

And as the plaintiff, Leslie Kelly, pointed out in a statement, *Kelly v. Arriba Soft* (*Ditto.com*) will now take its place with other Internet copyright law decisions such as recent important cases won against Napster (music) and *Tasini v NY Times* (republication of news stories) and *Jerry Greenberg v National Geographic* (reuse of images on CD-ROM).

The appellate court ruled that by allowing the public to view Kelly's copyrighted works while visiting Arriba's Web site, Arriba was creating a public display of Kelly's work without his permission, and thus was infringing on his exclusive right to display that work. The court also ruled that the reproduction of Kelly's images to use as thumbnails on Arriba's search engine was fair use under the Copyright Act, a decision that was welcomed by the photographer himself.

Kelly, in a statement released from Huntington Beach, Calif., said that Arriba Soft's action was "vicarious copyright infringement" and the court's decision was not a surprise. "I am quite pleased to learn that my original case filed in April 1999 against Arriba Soft has come down in my favor. The Ninth Circuit Court of Appeals has determined the case as it was filed, a simple case of vicarious copyright infringement, by Arriba Soft, Inc., whose true use was disguised as an 'image search engine'. I was not surprised by the wisdom of the Circuit Judges who reached the decision. I am quite pleased to see that copyright owners worldwide now have case law to enhance their protection from rogue start

*cont. on p. 22*

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# FACING CHANGE TOGETHER

*ASMP is in a unique position to help you* BY WOODY PACKARD

This will be a year of change for photographers. For many it will be a sink or swim year after a season of economic leanness and uncertainty. Some will take another step on the path between analog and digital imaging. Some will rethink marketing strategies, add to the services they offer, or look for new ways to find business. Although we like to exaggerate our differences, these are times when it's painfully obvious how much we have in common. In addition to our skill as visual creators, growth in the coming years will depend on using information and technology to our advantage.

ASMP is in a unique position to provide much of this information, and to offer advantages that aren't available elsewhere. With a professional staff that deals with the legal and business problems of members across the country, we've developed successful strategies for coping with the problems of photographers. With access to regulators and legislators, and relationships with suppliers, we're in a position to both influence and report the progress we make.

To improve the means for sharing this knowledge and provide an ongoing stream of current information, ASMP is planning a major overhaul of its Web site at *asmp.org*. Some of the goals of this overhaul are listed below. They're aimed at making information easier to find, easier to read, more relevant, and more timely. Our plan is to build the foundation for delivering tools and information that will help you in your business, while maintaining the level of watchdog advocacy that members have taken for granted. Doing this is not possible without devoting additional resources to the task. We need the support of those who will benefit. We're hoping you'll invest in this effort by approving a dues increase of \$25 in 2003.

## PLANNING FOR CHANGE

Positive change within an organization requires planning. Much of our recent planning has been centered on our most efficient means for distributing information to members—our Web site at *asmp.org*. For several years, ASMP committees and study groups have been gathering

information, making suggestions, and turning piles of members' requests into organized lists of features and improvements needed from *asmp.org*. These lists have been distilled into requests for proposals from several highly qualified Web development teams. As you read this, their proposals are being weighed against their estimates. Some of what we're looking for are:

- A look that will welcome all visitors—from members to photography buyers
- Ease of navigation for various audiences that visit the site
- Increased ability to locate information, both by its logical location and by an improved search function
- Improvement of the *Find A Photographer* function
- A means for showcasing members' work
- Greater availability of business forms, guides, and checklists
- Resources for prospective members, students, chapter leaders, photography buyers, and those, such as your attorney, seeking information on intellectual property law.

The site will have e-commerce functions, making it possible to offer non-members the information we'd like to see all photographers use, while preserving the rest as an exclusive member benefit. One such benefit we're working on is business management software, free for the price of membership, available as a download. Although many members will choose to keep the software they're using, we'll ensure that even entry level members will have the ability to estimate, deliver, and invoice a job with standardized terms and conditions.

A Web site is only as good as the information it provides. While the restructure of the site is a formidable job, the long term costs come from providing the site with fresh information. In addition to the services of a professional development team, creating a useful site will require additional staff to find, write, edit, and deliver important information. All of this costs money.

## MAINTAINING STABILITY

In light of the challenges professional creators face, we have no choice but to continue our legal, legislative, and economic advocacy of photographers' interests. We might feel differently if we saw a reduced threat to those interests, or if other organizations showed the same commitment, devoted the same professional staff, or spent the same money ASMP spends protecting those interests.

ASMP is the only trade association for publication photographers to devote its professional staff to the single purpose of protecting their economic interests. It's the only trade association to engage the nine-year struggle for a practical means of registering the copyright to photographers'

most vulnerable work. It's the only photographers organization to provide legal staff and funds supporting the successful appeal of a decision permitting the appropriation of photographers' high resolution images from their Web sites. It's the only creators' organization to seed a photographer-owned means for licensing and distributing their work. For publications photographers, it's the only organization you can call to speak to a staff attorney with years of experience helping photographers.

Information systems, an advocacy organization, and the legal basis for protecting our interests do not sprout like mushrooms when you need them. They must be planned, built, maintained, and paid for over time. If you want to put your money somewhere where it will be used to protect the rights of professional photographers, there is only one place to put it. In many cases, if ASMP doesn't do it, it simply will not get done.

## **REACTING TO CHANGE**

The easy way to pay for change is to reduce the advocacy and service photogra-

phers have taken for granted. The hard way is to ask for your help. Although we realize it's a difficult time to ask for more money from members, we believe it's the responsible thing to do.

General members last approved an increase in dues in 1989, from \$225 a year to \$275. Thirteen years later, we're asking for half of that increase. In 1989, a professional Nikon cost \$800, ASMP's *M* stood for magazine, and hundreds of independent stock agencies were looking for submissions from photographers. The world has changed since then. The reasons for ASMP's advocacy efforts have increased. The threats to the interests of independent creators are now greater than ever. It's also apparent that there will be nobody else to watch out for the interests of independent publication photographers if we don't do so ourselves. For 13 years we've been stretching your dues dollar. We are now at its limit. We've come to a critical point in planning for ASMP's future and cannot decide to offer more service without your support.

In 1989, ASMP didn't need a Web pres-

ence. Neither did anyone else. The World Wide Web as we know it had not been invented. In 2002, ASMP can't afford *not* to improve its Web site. Reacting to change, we've found it's the most affordable way to distribute information to members.

Individually, you've reacted to 13 years of change by adding cell phones, computers, scanners, software, web sites, and digital cameras. Your landlord has reacted by raising your rent. The post office gives you three stamps for a dollar instead of four. Yet in 13 years, ASMP members have not agreed to a dues increase. Collectively, we have simply failed to react to change.

Two years ago an effort to increase dues was defeated. This year, we're hoping you'll reconsider, and support an increase that's equivalent to a 27¢ first class stamp. It's time.

## **ASMP MEMBERSHIP**

ASMP has always provided the kind of protection that helps members and non-members alike. In that way, you have generously paid for the preservation of rights that help all photographers—and often all

*cont. on p. 15*

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# STAY IN TOUCH

*Remember out of sight, out of mind* BY EMMET ROBINSON

**I** DO my writing with the aid of a computer. Over the years I've owned several. I bought the first one from a salesman who went out of his way to make ownership easy. He even sent me a thank-you note after the sale. But, since I never heard from him after that, I forgot about him and bought the second computer from someone else. When he faded away, computer number three was purchased from a different dealer altogether. I've forgotten his name as well, so my newest computer came from a company in Indiana. They will sell me the next one too, because they have maintained contact after the sale: with notes, cards, calls and a continuing stream of catalogs. This is my point. In scrambling for new business, it's easy to forget that your easiest sales will be to the clients you already have, provided, of course, that they remember who you are. In an increasingly competitive marketplace, the phrase "Out of sight, out of mind" has real meaning. Keeping in touch is important, and for two reasons:

1. Continuing contact helps to keep your current clients loyal because they're subject to advertising by your competitors. Keeping in touch with your regulars will keep them aware of the three vital things: Who you are; where you are; and how your services benefit them. Keeping in touch increases the chances of them returning to you in the future, instead of checking out another photographer.

2. Loyal clients are much more likely to tell their friends and associates about you and your services. This is where referrals come from, and they're the least expensive source of new business. Now, how can you keep in touch with your clients in an organized, effective way?

## MAKE A LIST, SEND POSTCARDS

There are several ways of helping clients to keep you in mind. One of the easiest and most cost effective is by using a mailing list. If you don't have a comprehensive client list, start one - and start it today. It can become one of the most powerful and profitable marketing tools you have.

And there are many different ways of keeping in touch by mail. What you say and how you say it will be determined by the size and type of your studio, the information you want to share, and the image you wish to project. What format will work best for you? Let's look at a few options.

Postcards are an economical way of keeping in touch. Simple, flexible and inexpensive, postcards can allow you to communicate time-based information quickly. With continuous-feed forms and appropriate computer software, you can transform an idea into a finished postcard ready for mailing in as little as an hour. Use one to let your clients know about your "open house" or special limited-time promotional offer. Postcards get read because they don't have to be opened!

If you prefer to communicate with a little more class, brochures can present a quick overview of your current services in a compact, portable package. Brochures can also be an economical way to introduce new services to existing clients, and even let them know about standard services they were previously unaware of. As a general rule, larger studios tend to send classier brochures.

Your only limitations are time and money. If professional design is beyond your abilities, find a local, work-at-home graphics expert who can create an effective brochure for your business without your having to hock your equipment to pay for it. A full-color photo on the cover will demonstrate both your style and the quality of your work. Remember that your verbal message is just as important as the visual. If you don't feel qualified to write an effective message for your brochure, hire a professional writer.

Be aware that ink jet printing smears when wet; photo offset printing is waterproof. See your local printer. Also check the Internet for specialty printers in other states. Some do full color beautifully at rates you can afford.

If your message won't fit a standard tri-fold brochure, you're trying to say too much in it. Use a newsletter instead. Whenever your selection of services changes, print and mail new material. The more informed your clients are, the more often they'll call you, or send you their colleagues.

## CUSTOMIZED FORM LETTERS

If you don't feel that a brochure will accomplish your purpose, try customized form letters which are personalized direct mailers. Although more difficult to do, they're more effective. A good one can be undetectable as a direct mail piece and can have a high rate of response. One of the best I ever received was from a portrait studio in nearby Springfield, Penn. Laser printed on their attractive letterhead, it began with the current date followed by my

name (spelled correctly), company name, and full mailing address. My name appeared again in the salutation, and a third time in the body of the letter. The letter began with an engaging question rather than a sales pitch, and was hand-signed! I read the entire letter! Later, I learned that about a hundred similar letters had been sent in individually typed envelopes, and that the result more than justified the effort. Okay, now let's look at something more sophisticated.

**NEWSLETTERS**

These are my favorite form of mailer. Newsletters allow you to establish a continuing dialogue with your clients, and maintain the personal touch. Always remember that you're in the people business.

The content of your newsletter should be helpful, useful information that will benefit your clients. An extended commercial disguised as a newsletter won't be read or retained. Your next one probably won't even be opened. Try to write something that your clients will be inclined to keep.

In my studio newsletter I simply describe recent projects. There are separate sub-headings for studio and location work, with a special section on restoration of vintage material. Clients are often mentioned by name, which they seem to appreciate. The newsletter is for information only, and never includes a sales message. Special offers may be included in the mailing, but on a separate sheet of paper. Whenever your clients refer to your newsletter, they'll be reminded of you, and the fine services you provide.

**Your writing style:** The style of your writing represents the image and values of you and your studio. The way in which you express yourself tells your readers who you are and what you stand for. If you write it yourself, simply be consistent with your normal conversational style. Make your

newsletter readable by writing as you speak. Seated at the computer, we have a tendency to become overly formal and use words that are not normally part of our active vocabularies. As a result, we sound stiff, stilted and insincere. For example, a newsletter on sales training for photographers might describe the function of a 'Trial Close' as: "A structured procedure for determining your rate of progress in eliciting

a positive response to your introductory presentation." In contrast, Atlanta's Jack Duddy would say: "Find out where you're at!" Grammar aside, which phrase seems more natural? And which is easier to spell?

If you hire a professional writer, read samples of his or her work to make certain you're in tune with each other. Also consid-

*cont. on p. 20*

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# WORK FOR HIRE

*Copyright and the silver spoon* BY JIM FIORA

About 20 years ago when I first became interested in pursuing commercial photography, I went with a friend to see Jay Maisel speak at an event in New York City. The strength of the work and the character of the man made a strong impression on the two of us just starting out. When he concluded his presentation he closed with the following advice, “Always show your best work and never do *work for hire*.” That was the first time I’d heard the term and the beginning of my education about rights, usage and the copyright law.

In the 20 years since, I’ve had very little contact with the “work for hire” issue and on the rare occasion when it showed up on a purchase order I’d simply cross it out or overrule it in my own paperwork and not another word was heard. I recently had an experience where I was presented a “contract” to sign that was in fact a 20-page “work for hire” agreement.

I knew it would be futile but I went ahead and wrote an impassioned letter to my contact explaining my position. I explained that a WFH agreement was intended for employees whose expenses, pensions salaries and benefits are paid for by the company, how freelancers have only their fees and the exercise of the copyright law to cover all aspects of their business expenses and income, and how Congress passed the law to protect creative professionals from the pressures of the marketplace. I felt quite good about it but it only resulted in making her feel defensive and uncomfortable and the ones in charge

couldn’t have cared less. Now that I have put a little distance between the sting of that reaction I realize that I can’t really blame them. Why should they care at all when everyone else was signing the thing without question.

In the course of the last few decades we’ve learned among other things, to be eco-sensitive. We don’t throw trash out of windows or chemicals down the drain and we have generally internalized the notion that we need to preserve the world for future generations. Why then do so many of us trash our own industry and poison the waters of photography? We’re supposed to love this field and seek to nurture it through the present turmoil and on to the next generation. Is it because that being a part of the commercial marketplace means that we can suspend our ideals and do whatever it takes to get the job? What about common sense? Even a dog knows not to crap where it eats.

Sure, business dealings can be confusing, and messy, and generally contrary to all the fun things that we like about photography; but we’ve all had to quit doing things that felt good for the moment because we recognized that they had no future. Why is it that the thing so central to our livelihood would be the exception? It’s not that work for hire is inherently evil. It’s all about how you’re compensated for what you give up.

Being granted copyright to your images is like being born with money and privilege. Whether it’s right or not, it’s been handed to you; and if you’re smart, you won’t abuse it and you won’t give it away. Make no mistake; this isn’t altruism, or

benevolence or philanthropy we’re talking about. Giving away rights is as stupid as letting the big kid on the block talk you into giving him your allowance.

A few years back at one of the “Strictly Business” seminars one of our members commented that most photographers don’t negotiate well for the simple reason of being timid. It stung then, because it had been true of me, and it stuck because it continues to be true of many of us still. Unfortunately, one reason to be timid about claiming what is, by law, your own, is the fact (or fear) that everyone else is giving it away.

## SOLUTIONS

- Don’t be everyone else. Work to set the standards that you know are right.
- Do better work. You can get behind your principles a lot easier if it’s for something you care about.
- Get better clients. You can do that with better work and you can get to start fresh in your business dealings. Professionalism is appreciated as much as good work.
- Don’t give away anything. This is business. Your content and your copyright have value or you wouldn’t be talking in the first place.
- Don’t look back. ∞

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*Jim Fiora is a member of the Connecticut chapter of ASMP and is based in Wallingford. He specializes in corporate-industrial, medical, interior and product photography. This article was first published in the chapter newsletter, February 2002, and is reproduced here with the author’s permission. Fiora’s URL is [www.jimfiora.com].*

# GREAT BUSINESS TIPS

*And they're straight from the client* BY IRA GOSTIN

The following tips were compiled from a survey of several dozen art directors and photo editors over the course of several years.

1. Accessibility. Clients want to be able to reach you and receive a prompt response. Make sure that you return phone calls within a day. Clients understand your need to rely on voice mail or answering machines while you are on a shoot, at the same time they want to know you will be on top of your business and return their important call as soon as possible. One art director mentioned that just having a photographer's home phone number—and not using it—gave him some peace of mind while preparing for a big shoot.

2. Be professional. Business clients are used to dealing with professional business people and unless you are at the stage of your photographic career where your own personality, name and eclectic self are more important than business professionalism, be smart about how you conduct yourself. Professionalism does not necessarily mean wearing a tie but it does mean being business-like in the way you conduct yourself.

3. Fulfill the job requirements. Did you deliver the job when it was promised? Did you accomplish the goals that were clearly stated by your client? Make sure that your client is satisfied and feels that they were the center of the world while you were creating pictures for them.

4. Don't expect to be babied. Your clients have other things to do and they are paying you for your expertise. While you will be expected to call if things change or other situations arise, don't call the client every five minutes and ask them for help. They are paying you to solve those problems.

5. Stay within budget. Clients expect to receive invoices that show the same fee as

the proposal. One way to alienate yourself very quickly from a job is to have cost overruns and present a "surprise" invoice to the client.

6. Price the job. Be consistent in the way that you charge for jobs. If you charge day-rates, they should be consistent. If you work on a usage system, make sure that the client understands how they are being charged. Again, eliminate the surprises. Make sure that both parties are comfortable with the contract.

7. The portfolio. The book must match the promos. The biggest complaint that I have heard from art directors is when they called for a portfolio, based on the promo materials received, and the book looks nothing like the promos! If the job is not what you do, or is over your head, be honest and tell them this is not what you do.

8. Know the client. Make sure that you understand the client. If it is an agency,

know who they work for. If you are hitting corporate prospects, understand the "look" that they have, know what kind of image they have. A killer promo featuring auto shots sent to an agency that represents only food clients is a waste!

9. Be yourself. Let the client get to know a little about you, who you are, what makes you tick. We all like to work with people we find interesting.

10. Be Passionate. Be excited about what you do! Let your enthusiasm and passion for creating photographs show. People like to work with creative professionals that are excited about their work. And of course, have fun! ∞

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*Ira Gostin is a leading advertising and corporate-industrial photographer in Reno, Nevada, who writes and lectures on marketing and business topics. [www.gostinphoto.com].*

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# LEGAL ACTION FUND

*Recent victories were supported from this resource*

Two recent and very important legal victories for photographers which have been financially supported through the ASMP Legal Action Fund highlight the value of this financial war chest. The successful outcomes of *Kelly v. Arriba Soft* (see page 5) and the California sales tax exemption case (see page 20) resulted from the determination and courage of the individuals involved, their willingness to go the distance, the support from trade organizations and other groups that believe in the rights of creators, and having the legal and financial resources to fight such battles.

ASMP is committed to legal advocacy—it is an essential element in the Society's mission to promote and protect the rights of photographers who photograph for publication. But it costs money to wage legal wars and revenues from ASMP membership dues alone are not sufficient to do that.

Fortunately, ASMP members have generously supported the Society's legal advocacy efforts by contributing thousands of dollars to the Legal Action Fund. And that money has been used efficiently for the benefit of all copyright owners. Unfortunately, even while individual cases are being fought, won, or lost, the war never ends—it is ongoing. Consequently, there is a continuing need to replenish the Legal Action Fund.

ASMP appreciates that the fund requires voluntary support from members and during 2002 we will be creating a pool of "goodies"—equipment, film, software, books, and similar from which drawings will be made periodically. To participate, please send in a contribution to ASMP national with a completed coupon and you will be entered. Details of the Legal Action Fund prizes will be provided in future issues of the Bulletin but we do know that among the prizes will be things such as a Nikon Coolpix 5000 camera, an Epson color printer, film from Kodak and Fuji and numerous books produced by our members.

In the meantime, many thanks to the following individuals who have contributed to the Legal Action Fund in the past several months and if you can see your way clear to support the Society's legal advocacy efforts, please follow their lead.

## October 2001

Jeffrey Apoian-\$25, Lon Atkinson-\$100, Sid Avery-\$100, Kate Bader-\$50, Jonathan Delano-\$10, C. Bruce Forster-\$50, Duane V. Gamble-\$25, Paul Horsted-\$50, Nancy Kavanagh O'Neill-\$100, Don Klumpp-\$200, Scott F. Kohn-\$20, David Makris-\$25, Nancy Pierce-\$50, Todd Powell-\$50, Clem Spalding-\$25, Michael J. Spilotro-\$50, Jake Wyman-\$50.

## November 2001

Carter Allen-\$100, Mariette Pathy Allen-\$25, Antonio Arruza-\$20, Ralph Arwood-\$25, Philip Banko-\$100, Joe Barnell-\$20, Earl S. Belofsky-\$10, Sue Bennett-\$100, Hilda Bijur-\$25, Reis Birdwhistell-\$75, Mike Bizelli-\$25, Laurie Black-\$25, Mary Bloom-\$25, William G. Bowers-\$50, James Brick-\$100, Dan Bronson-\$50, David Brownell-\$25, Al Bruton-\$125, Hilary N. Bullock-\$25, Richard Checani-\$50, Phillippe Cheng-\$50, Robert C. Clark-\$25, Bernie Cleff-\$150, Bob Coates-\$52, Ralph Cole-\$25, Mike Crabtree-\$25, Bonnie Crosby-\$25, Eric R. Crossan-\$50, Billy Cunningham-\$25, Robin Cushman-\$5, Javier Dauden-\$25, Ray DeMoulin-\$50, Sue Dippold-\$25, Myron Dorf-\$50, Jim Douglas-\$25, Brian Dressler-\$75, Laura Dwight-\$50, Victor Englebert-\$100, Amy Etra-\$25, William E. Ferguson-\$20, Paul Fetters-\$25, Alastair Finlay-\$25, Kevin W. Fitzpatrick-\$10, Elisabeth Flynn-Chapman-\$10, Pam Francis-\$100, David Franzen-\$50, Thomas Fritz-\$25, Ed Gaines-\$10, Bill Gallery-\$, Brant Gamma-\$25, Carol Gault-\$50, Stacy H. Geiken-\$25, Mark Gibson-\$100, Mailli Godwin-\$10, Gary Gold-\$25, Leonora Goldberg-\$50, Fred Golden-\$25, Frank T. Grabas-\$10, Jay Graham-\$50, Vincent Graziani-\$50, Peter Gregoire-\$25, Abigail Gumbiner-\$25, Tom Haight-\$25, Maury Hammond-\$25, Doug Handel-\$25, Robert E. Handley-\$25, Mark Harmel-\$25, William Gray Harris-\$10, Lynne Harrison-\$25, Alex Hayden-\$25, Christie Hazen-\$25, Sharon Hoogstraten-\$25, Jay Hoops-\$100, Dave G. Houser-\$25, Lynn Hunton-\$10, Robert Isaacs-\$25, Gay Johnson-\$25, Roark Johnson-\$25, Scott Jolliff-\$23, Wolfgang Kaehler-\$100, Linda Kahlbaugh-\$25, Tom Kates-\$20, James Kegley-\$10, Lewis Kemper-\$25, Benjamin Kenagen-\$5, Aran D. Kessler-\$25, Carol Kitman-\$10, Gea Koenig-\$10, Thaddeus B. Kubis-\$100, Barry Kulick-\$25, Pete Lacker-\$25, Tom Lamb-\$25, Robert Lautman-\$100, Susan H. Leavines-\$25, Jerry L. Litton-\$50, Ted Mahieu-\$25, John F. Mahoney-\$25, Don Mally-\$10, Joseph Marranca-\$25, William E. Marsden-\$5, Don Mason-\$100, Clyde May-\$10, Inger McCabe Elliott-\$200, George McCracken-\$25, Forest McMullin-\$100, James K. Mellow-\$20, Karen Melvin-\$25, Arthur Meyerson-\$100, Jeff Miller-\$15, Melabee M. Miller-\$25, Raoul J. Minsart-\$25, Keith Mumma-\$25, Thomas Neerken-\$125, Mette Nielsen-\$100, Jack Novak-\$10, Richard Nowitz-\$25, Joshua Owens-\$25, Laurence Parent-\$25, Chuck Pefley-\$25, Victor John Penner-\$25, Bob Perzel-\$100, Ruth H. Petzold-\$25, Nancy Pierce-\$25, Lincoln Potter-\$25, Richard Prince-\$25, Louis Psihoyos-\$100, George Ranalli-\$25, Mary Randlett-\$20, Pamela Rankin-Smith-\$80, Lilo Raymond-\$10, Michael Reed-\$100, Laszio Regos-\$25,

William Rivelli-\$1000, Lois Rodger-\$25, Kenneth Ross-\$25, Vance S. Roth-\$25, Len Rubenstein-\$50, Nancy Rudolph-\$25, Lou Russo-\$25, Maria F. Saari-\$25, Stephen L Saks-\$25, Barbara Scheide-\$20, Thomas R. Schiff-\$25, Wilhelm Scholz-\$25, Herb Segars-\$25, Art Seitz-\$25, Mark Shapiro-\$100, Joel Sheagren-\$25, Carter Evan Sherline-\$25, Jerry Siegel-\$50, George Simian-\$25, Elizabeth P. Simpson-\$25, Michael D. Simpson-\$25, Brian Smale-\$100, John Smallwood-\$25, Gordon E. Smith-\$100, Michael E. Snively-\$50, Ron Solomon-\$25, Robert Stahman-\$10, Erik Stenbakken-\$10, Karen Stewart-\$25, Stephen Stinson-\$25, John Sundlof-\$10, Eric Swanson-\$25, Paul Swen-\$25, Gilbert Tanner-\$20, John Titchen-\$25, Aneal Vohra-\$6, Ray Voight-\$25, Agostino Von Hassell-\$5, Jessie Walker-\$50, Tony Walsh-\$20, David H. Wells-\$25, Thomas Werner-\$25, Ken West-\$25, Carol Wien-\$25, Patrick Wilen-\$25, Gary H. Wilson-\$25, Earl Wood-\$10, John N. Yaeger-\$25, Mathew Zucker-\$20.

#### December 2001

Jeff Amberg-\$25, Paul Barton-\$25, Nancie Battaglia-\$25, Murray Bognovitz-\$25, David Bradley-\$25, Adrian Bradshaw-\$25, Michael Bry-\$20, Steve Budman-\$25, Cris Burkhalter-\$75, Robert Burroughs-\$25, Donna Calligham-\$10, Chris Casaburi-\$25, Laurence D. Chen-\$25, Mark S. Chester-\$25, John Coletti-\$25, Dennis Connors-\$25, Suki Coughlin-\$50, Tim Crosby-\$150, Randal A. Crow-\$20, Jerry R. Davis-\$100, Alex Demyan-\$25, Joseph Desciose-\$25, Cindy Dougherty-\$50, Rue Faris Drew-\$200, Mike Duhon-\$50, Ann Duncan-\$25, Jack Dysart-\$10, Francis Joseph Dzikowski-\$50, Tom Eglin-\$25, Johan Elbers-\$25, Dasha Ewing-\$25, John A. Ey-\$10, Leonard M. Fashoway-\$25, Richard Felber-\$50, Ron Forth-\$50, Rodolphe Fouche-\$25, Daniel Francis-\$200, Tom A. Frelove-\$25, Mitchell Funk-\$25, Eric Futran-\$10, Shaun Gabbard-\$50, Duane V. Gamble-\$25, Paul Gish-\$25, Bob Gomel-\$110, Carlos Gonzalez-\$10, Art Grossmann-\$10, Jim Grove-\$25, Debe Hale-\$100, Larry Hamill-\$50, Bob Handelman-\$25, Denton Hanna-\$25, Alan Harris-\$50, Shelly R. Harrison-\$10, John Hartfield-\$25, Bill Hatcher-\$50, Mary Heller-\$100, Byron Hetzler-\$25, Paul Horsted-\$25, Hugh (Bud) Hunter-\$25, John B. Hyde-\$25, James M. Innes-\$10, Kirk S. Irwin-\$25, Donna Jernigan-\$10, Linda Jeub-\$10, Sylvia Johnson-\$10, Everett C. Johnson-\$15, Spencer Jones-\$25, Antoinette Jongen-\$15, Alan Karchmer-\$50, M. Lewis Kennedy-\$25, George Kerrigan-\$25, Sam Kittner-\$50, Bruce Kluckhohn-\$100, Howard V. Koby-\$25, Kenneth Kollodge-\$25, John A. Lacko-\$25, Chun Y. Lai-\$25, Whitney Lane-\$25, Lew Lause-\$25, Arthur Lavine-\$50, Anne B. Lawver-\$20, Ron Levy-\$25, Patricia Barry Levy-\$25, Caryn Levy-\$25, Jerome Magid-\$25, David Makris-\$25, Tina Manley-\$25, Milton B. Mann-\$25, Sylvia Martin-\$25, Edward Massery-\$25, Asa Mathat-\$25, Gary Mattie-\$25, Fred Mayer-\$25, Tom McKean-\$100, Michael F. Meachim-\$6, William W. Mercer-\$100, Dennis Mitchell-\$25, Margaretta Mitchell-\$25, Mark F. Molesky-\$50, John Motelewski-\$25, Owen Murphy-\$25, L.A. Myer-\$25, Oscar Nelder-\$20, Joseph Nettis-\$10, Brent Nicastro-\$25, Steve Niedorf-\$50, Jonathan Nourok-\$35, Chuck O'Rear-\$100, Sonny Odom-\$25, John T. Parkinson-\$20, Bob Peterson-\$50, Mark Pfister-\$25, Jim Pidgeon-\$25, Susan Pierres-\$30, Rob Pike-\$10, L. Hudson Pinkney-\$24, Alan Pitcairn-\$100, Chuck Place-\$25, Meir Pluznick-\$5, M. Louisa Preston-\$25, Dwight Primiano-\$25, Heather Quintans-\$10, David K. Rosen-\$25, Tom Salyer-\$25, Chris Sattlberger-\$20, Joseph Scafuro-\$10, Charles R. Schneider-\$10, David Sharpe-\$25, Karen Shell-\$25, Frank L. Simonetti-\$100, Witold Skrypczak-\$25, Jerry N. Slaughter-\$20, Fredric Stein-\$100, Sarah Strouss-\$50, Carol A. Sund-\$5, Mike Tauber-\$20, Tomasz Tomaszewski-\$25, Muriel Toucey-\$25, Augusto Valentin-\$30, Robert Visser-\$75, Roger Wade-\$100, George Waldman-\$25, Jim Wark-\$25, Rita Weigand-\$25, Robert Westerman-\$10, Steve Woit-\$25, Anthony B. Wood-\$25, James Worrell-\$25, Ida Wyman-\$25. ∞

#### FACING CHANGE TOGETHER *cont. from p. 9*

creators. This responsibility is what sets ASMP apart from other organizations, and it's what sets ASMP members apart from other photographers.

In return, ASMP offers direct benefits to members. Access to legal advice, industry standard terms and conditions, negotiating help, and news—good or bad—about the publishing industry, are meant to increase your opportunity for profit. *Find A Photographer* with its links to members' Web sites, has been successful in steering clients to members, with some reporting that a sizable portion of their business now comes from these leads. Current information about the changing process of registering images with the Copyright Office is meant to help you get what you deserve when your work is infringed.

ASMP's purpose is to protect and promote the interests of publication photographers. It's an effort that can only be accomplished by joining forces, pooling our resources, and working together to counteract much larger interests than our own. In this way, we accomplish collectively what we're powerless to accomplish as individuals. Our focus is on preserving the rights that make the publication of our images profitable, preventing the loss of income those images provide. If you are a general member of ASMP and you've read this far, you understand the importance of this focus.

Twenty-six years ago the photographer who gave me my first 4x5 film holders opened two beers and set them in the middle of his kitchen table. He looked me in the eye and said, "You're doing work for money now, so there's something I need to say." He did, telling me that the photography profession had been good to him, and that he didn't want some stupid kid messing it up. He said he'd give me all the help I wanted, but unless I treated the profession like my life depended on it, we would part ways. I nodded. He slid a bottle across the table.

A referendum to increase ASMP's dues by \$25 will be mailed to you in several weeks. Please vote as though your profession depends on it. ∞

# INTERNATIONAL TRAVEL

*Things have changed, so be flexible* BY TED ENGELMANN

**R**ecently I returned from four months of traveling and photographing in South Korea, Vietnam and Australia and the only time I had any cause for concern about security was when I returned to the US and was trying to board a domestic flight at LAX Terminal 6 to Denver. The security staff were lax, and the small military woman on duty with her M-16 was chatting with a security staff person and was not alert. When I asked to see the supervisor of Globe Security, contracted by Continental Airlines, I was put through a difficult experience of verbal abuse (including, "Why are you trying to cause trouble?"), along with an intense search which seemed more like a control issue than concern for security.

After a week of calling around looking for an avenue for redress, I found the FAA Hotline, 1-800-322-7873, and shared the experience with folks who might care.

Everything mentioned by the people quoted in the November 2001 *Bulletin* article (Page 10, *Road Warriors*) on this subject was valid, especially regarding hand-checking of film, luggage size, and other changes.

From my experience in South East Asia, I found a difference in airlines' policy on the allowable weight of checked luggage. As an example, Vietnam Air allowed two checked bags with a total weight of 67lbs and a 11lbs carry-on. They charged US\$10/2.25lbs for overweight luggage. There are about two to three X-ray checks you'll go through at each airport in Vietnam, coming and going. In that way, they're thorough, but they will hand-check on request.

Air travel is a bit capricious, as when our Vietnam Air flight to Sydney was boarding the same aircraft designated as a Qantas flight to Sydney. The aircraft was only half-full, and the Vietnam Air ticket counter staff were charging for overweight luggage.

Also, if you fly to a remote location in Vietnam and there are very few passengers for a return flight, you might have to stay at that location until there are enough passengers to make the return flight economically viable.

On the other hand, when I flew from Sydney to LAX with Air New Zealand they allowed two check-in bags weighing 72lbs each! We were also allowed a 16lbs carry-on.

Regarding photo supplies: Vietnam has no decent black and white film or processing. Some Vietnamese photographers process their own black and white film, but they do it in a very limited fashion.

It might help to bring your own chemicals and paper to help the cause, as these materials are normally too expensive and difficult to find for most Vietnamese. Kodak TriX or other reliable brands are not found in Vietnam. Kodak T400CN is the only close relative of black and white that I found.

The X-ray machines at the gates for carry-on didn't seem to be a problem, at least for TriX. In the past, I've carried several rolls through the X-ray checks, with some film going through about 10 times in all. After each X-ray, I took one roll out of the bag to eliminate further X-ray dosage. I wanted to see when or if there was any accumulative effect, and at what number of passes through X-ray did it occur. After developing the film, I couldn't see any fogging on the film, nor on black and white paper which had been subject to the same amount of X-ray. However, these were in the carry-on X-ray machines, not the more powerful machines used for checked luggage.

I'm sure there are lots of new situations developing daily for traveling photographers. In

many ways, it's a very different world out there. You just have to be flexible. ∞

ASMP member **Ted Engelmann**, who is based in Denver, Colo., served in Vietnam, from the end of the Tet Offensive to March, 1969, during which time he photographed the people, the land, the culture and the war machine. For the past 20 years, he has documented the public rituals of post-Vietnam War healing throughout the US and in South Korea and Australia. Engelmann has lived and traveled extensively in those three countries. He resumed documenting Vietnam in 1989.

**"I'm sure there are lots of new situations developing daily for traveling photographers. In many ways, it's a very different world out there. You just have to be flexible."**

## Promoting copyright awareness

**M**ake a note of it and tell everyone: April 22-28 is Copyright Awareness Week. ASMP is supporting an effort by the Copyright Society of the U.S.A. to create a greater awareness among the youth of America about the protection and use of creative works. The premise behind CAW is simple: a public that has a basic understanding of copyright law and its relationship to the arts—including its fair use exceptions—is far more likely to respect and comply with the law, than one that functions on misinformation.

During CAW, copyright experts and educators throughout the country will seek to teach young people about the basic purpose of copyright as articulated in the US Constitution—to promote the advancement of the arts by providing creators with the exclusive rights to their works for limited terms.

The Copyright Society of the U.S.A. is a non-profit educational organization with 900 members located in Chapters throughout the United States. Its primary function is the gathering, dissemination and interchange of information concerning the protection and use of creative works, such as music, movies, television, books, sculpture, painting and photographs. The Society seeks to promote better understanding of copyright through its lectures, publications, panel discussions and meetings, and to enhance dialogue among industry groups, creators and users of works protected by copyright.

Now more than ever, familiarity with copyright will play a crucial role in maintaining the vitality of the arts in the United States. Music, literature, theatre, television, film and the fine arts enhance our lives. These crafts tell us who we have

been and help us to define who we are. It is impossible to imagine life without the arts. What kind of world would it be if no one could make a living writing songs or books, and in which producers dared not invest in new playwrights, or publishers in novelists?

Copyright law ensures that the creators of our cultural heritage will be fairly compensated for their works. It enables the creators, producers, publishers and distributors of artistic works to control whether, how and when their works of art are used. Copyright provides incentives to creators by reassuring them and those who invest in their works that others will not use the fruits of their imaginations without fair compensation and rightful credit.

Copyright law takes on a particularly important role in the digital age, now that the consumer can copy music, books, films and other creative works at home more easily than buying them in the store. If copyrights are to be protected in the digital age, copyright law needs to be understood and respected. This is particularly true with the younger generations. It is our belief that, by fostering an understanding of copyright law, including those activities which are prohibited and those that are permitted as fair use, a greater respect for copyright and the creators it protects will naturally follow.

Copyright Awareness Week will target students and educators. Copyright Society members will be called upon to speak in local schools, colleges, universities, libraries, arts and educational associations and other organizations about the importance of copyright. Throughout the nation, copyright experts and educators will distribute materials and speak in schools and other educational institutions and over the Internet. ∞

## Our Cover

**P**hotographer Todd Powell, an outdoor adventure sports enthusiast based in Frisco, Colo., specializes in location work. Not surprisingly, his work is based on a life long interest in the outdoors and the numerous ways that people enjoy the outdoor lifestyle.

Powell used his own extensive experience and the talent of a skilled skier and model in creating our cover shot of skiing writer and model Jill Adler of Park City, Utah. As Jill carved her way down the slopes of Sun Valley, Idaho in 1998 Powell captured the action on Scala black and white transparency film. "I was shooting for my stock file with a couple of professional ski models during a press trip to Sun Valley," said Powell of the image which is featured at Mira.com.

The clean lines and simplicity of the image belie the attention to detail that Powell pays to all his stock and assignment shooting. As with all his other favorite images, this shot resulted from a combination of technique, a well thought out idea, great light, an experienced model, and competent execution.

A graduate of RIT, Powell pursued his photographic career by assisting and later moving to Salzburg, Austria where he produced editorial and advertising assignments. In 1986, he settled in Colorado's Rocky Mountain region minutes from five major ski areas and only an hour from Denver.

When not on assignment outside Colorado, he spends his time shooting for his portfolio and pursuing his interest in snowboarding, telemark skiing, ice climbing and mountain biking. An avid traveler, Powell has produced thousands of stock and assignment images from Alaska to Belize. His work has been published around the world for a host of editorial, corporate and advertising clients.

To see Powell's images go to [<http://www.toddpowell.com/>]. ∞

# NewsLines

Please send contributions to Editor, ASMP Bulletin, P.O. Box 652, Anacortes, WA 98221  
E-mail: Bulletin@asmp.org

## FILM INDUSTRY LOOKS FOR TAX BREAK

As film production and jobs are lured north to Canada by government subsidies and favorable currency exchange, the U.S. film industry has been asking for tax breaks so it can keep making movies here. According to *The Wall Street Journal* California is heeding the cry, and Gov. Gray Davis has proposed as much as \$100 million a year in tax credits to keep TV and movie projects in California, where about 70 percent of movie production takes place. Other cities which have felt the effects of foreign competition include Chicago, Pittsburgh and Seattle.

## HACHETTE FILIPACCHI PHOTOS OPENS U.S. OFFICE IN NEW YORK

Paris-based Hachette Filipacchi Medias (HFM) has opened a U.S. office of Hachette Filipacchi Photos (HFP) headed by Eliane Laffont at 1633 Broadway, New York. The parent company is the leading magazine publisher in the world with 200 titles in 34 countries.

HFP is the company's editorial photographic subsidiary and manages major photo agencies in France, the U.K. and the U.S. such as Gamma, Rapho-Top, HoaQui, Keystone-France and others. Gamma opened an office in New York last year.

Laffont will manage and conduct all strategic planning for HFP as a major provider of editorial photography worldwide. She will be responsible for developing photographic archives and collections, pursuing joint ventures with book

and magazine publishing groups, developing relationships with clients and photographers and exploring new markets. A former director of photography for *Look* magazine, she helped found Gamma and Sygma USA.

## STOCK: GOING TO THE DOGS?

Pet owners, it seems, are sparing no expense when it comes to keeping their animals healthy. Kidney transplants, braces for canine teeth (literally), chemotherapy and allergy treatments are all samples of what people will spend huge amounts of money on these days. An article on the subject in *The Wall Street Journal* cited one pet owner who took out a \$30,000 home equity loan to pay for a \$25,000 kidney transplant operation on a beloved dog. Why should ASMP members care? Seems like there's some good stock shooting possibilities out there.

## COPYRIGHT REGISTRATIONS ARE DELAYED BY EXTRAORDINARY SITUATION

Mail has not been delivered to the Copyright Office since mid-October and the situation is not likely to improve soon. Managing director and general counsel Victor Perlman said that he had been told by the Register of Copyrights that delivery of all types of mail to government facilities has been severely disrupted by the various anthrax and similar problems. "Because of this, mail has not been delivered to the Copyright Office since mid-October. If you have filed any registrations since then, wait until

you eventually receive a registration certificate and then contact the Copyright Office to have the date of registration corrected, so that you will not be in effect penalized by the situation," said Perlman.

"More important, do not submit any registrations at this time by mail. They will be held up indefinitely. Filing by FedEx, UPS or other carriers will not do much better. The only way to be sure of prompt registration is to hand carry your registration materials, or have some friendly, helpful individual hand carry them, to the Copyright Office in Washington. I wish that I could give you some easier way of getting your copyright claims registered at this time, but the current situation is extraordinary," said Perlman.

## CALUMET HOLLYWOOD OPENS NEW PHOTO CENTER IN LOS ANGELES

Calumet has relocated its Hollywood, Calif. store to a redesigned, 16,000-square-foot facility at 1135 N. Highland Ave., not far from the original location.

And if you missed the grand opening celebration, held March 7-8, which included a two-day sale with offers on popular equipment and supplies, don't worry. Calumet will continue the celebration every Friday in conjunction with its vendors to host free seminars, technical tips and product demonstrations. Details will be mailed to customers near the Hollywood location and in surrounding areas. The new location's phone number, 323-466-1238, is unchanged.

The facility includes a huge

showroom with a hands-on demonstration area containing the latest professional photographic products from lighting equipment to film and paper to digital cameras; a new electronic imaging center; a fully-equipped in-house studio to test any product in Calumet's stock. Also included is a hands-on darkroom stocked with a wide variety of equipment and materials and a rental department with an expanded selection of lighting gear and special camera formats. An extensive collection of the latest digital camera rentals is also available.

## DURABLE GOODS ORDERS, CONSUMER CONFIDENCE, ON THE RISE

Two recent economic indicators are encouraging and while the economy is not out of the woods yet, things are looking up. *The Wall Street Journal* reported that new orders for durable goods (items meant to last three years or longer) rose by two percent in December, after falling by six percent in November; capital goods orders excluding defense rose by 1.3 percent, the third straight increase, led by a 3.5 percent gain in orders for computers and electronics, suggesting business investment may have stabilized. And the Conference Board said its index of consumer confidence rose to 97.3 in January from a revised 94.6 in December. ASMP has heard encouraging reports from some members that projects put on hold at the end of the year, especially in the travel and hospitality industry, had been revived.

## JACK MITCHELL HONORED

Veteran ASMP member Jack Mitchell of New Smyrna Beach, Fla., is among recipients of the 2002 Dance Magazine Awards, the most prestigious annual recognition in the international dance community and the only photographer to be honored. Mitchell's photographs have been published over almost five decades in Dance Magazine and The New York Times. He has been honored for having: "established a fresh, clean, etched studio style that is one of the very few consistent, comprehensive, and original records of 20<sup>th</sup> century performing and creative artists."

## NEW NIKON ONLINE SERVICES

NikonNet (<http://www.nikonnet.com>) has been expanded and redesigned to combine added features and photo-editing tools which include a new photo-editing studio, homepage, gift category and CD archiving service. According to the company, NikonNet initiated the changes to help accommodate the growing number of digital photographers and new digital-camera owners looking to the Web for convenient and reliable photography services.

"By enhancing NikonNet's photo-editing tools and expanding its options and services, we believe we can offer members a site that reflects our vision for a Nikon photography community online," said Tracy Mack-Jackson, manager of Internet programs for Nikon Inc.

## BACK ISSUE OF ASMP INFINITY IS WANTED

The San Francisco Museum of Modern Art wants to acquire a February 1962 issue of ASMP's Infinity magazine to get material for a forthcoming retrospective of the work of the photographer Diane Arbus. Please contact Suzanne Feld, Department of Photography, SFMOMA, 151 Third Street, San Francisco, CA 94103-3159 or phone (415) 357-4153 if you are willing to donate or sell this issue or if you have any leads on where one might be obtained.

## EXECUTIVE BOARD VOTES ON CREATIVE EYE LOAN

The executive board met by telephone on January 10 and voted in favor of an unrestricted \$10,000 loan to Creative Eye. In other business, planning is under way for a fall Bradshaw Leadership Conference to coincide with Photo Plus East 2002.

# What's Hot

## Web infringers on notice

In answer to a query on the ASMP members-only forum about an industry standard for unauthorized use of an image, executive director Richard Weisgrau warns there is no industry standard for such a thing as an 'unauthorized use fee' but there is a way to put Internet infringers on notice.

"Individual photographers cannot impose the fee on an infringer: only a court can. You have no contract with the person entering the Web site, so while you can assert that the fee was agreed to by accessing the site, making it stick is another story. There is a better way," said Weisgrau

"First, register the images at the site with the Copyright Office and register additions to the site every 90 days. This can be done by either registering the Web site as whole or by registering the images on the Web site in a group before or after they are published on the site. This will make you eligible for reimbursement of legal costs, attorney's fees and statutory damages up to \$150,000 per infringement," he said.

And then place a notice on your Web site that says: "All images on this Web site are registered with the U.S. Copyright Office. Any unauthorized download, screen capture, or otherwise captured or reproduced copy of any image or other content on this Web site is a violation of the Federal Copyright Law. The infringing party may be held liable for damages up to \$150,000 per infringement plus all attorney's fees and legal costs."

**Editor's note:** See *Kelly v. Arriba Soft*, page 5 in this Bulletin. Also, be aware that at writing, there are abnormal registration delays at the Copyright Office. See related item in Newlines.

## Special members' price on ASMP business practices book

Members can now obtain the 6th edition of the ASMP *Professional Business Practices in Photography* for \$21, a savings of about 30 percent on the retail price of \$29.95. The book is recognized as one of the most authoritative of its kind currently available and represents the combined knowledge of veteran photographers, attorneys, accountants, marketing experts, editors including ASMP members and staff. Covered in the more than 400 pages are subjects ranging from assignment, stock, pricing and estimating, negotiating fees and agreements, rights and value in traditional and electronic media, formalizing agreements, releases, copyright, electronic technology, business and marketing strategies, book publishing, and professional services.

**STAY IN TOUCH** *cont. from p. 11*

er the writer's background and experience. Someone who normally writes scientific or medical papers may not be able to represent you well.

**Be consistent:** Your newsletter is an extension of your studio, and should accurately represent the general tone of your

business. With a sole proprietorship or a small family operation, you can be somewhat folksy. If you're running a suite of studios in a large corporate center, you might be more formal. Your newsletters may be passed along to prospective clients. Representing yourself accurately will avoid surprising someone who simply shows up

at your door without an appointment.

**Get a head start :** You remember what it was like to cram for college finals the day before the exams. If you mail your newsletter on January 2, start writing the next issue on January 3. Why wait? With time on your side, useful ideas will float more easily to the surface of your mind. Your writing will be much better, and your stress will be less. Frequency is important, too. One mailing a year is too few because your clients can forget you between newsletters. Once a month is too often because most people are short on reading time. Quarterly mailings seem a happy compromise.

**Be original:** There may be prewritten industry-specific newsletters available, to which your name can be added. They include accurate, up-to-date information, and will save you a lot of time. The downside is that they don't represent you. They don't even know you! YOU are your biggest competitive advantage in a crowded marketplace. Make the most of your uniqueness. Be yourself and do your own writing. It's not that hard. If a client were standing in front of you, how would you really express yourself?

**The payoff:** In the most competitive marketplace in history, your future livelihood is being threatened by competition you didn't have five years ago. Some photographers now have outside employment in order to survive. Ninety-nine percent of new studios fail. Don't let it happen to you. To boost your bottom line, keep your clients loyal by keeping in touch. ∞

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*Emmet Robinson is a professional speaker serving the photography profession with entertaining seminars on profitable client retention. For a free catalog, call 800-889-0822.*

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## Calif. BOE gives sales tax exemption

**A**nother case which has long been supported by ASMP has resulted in a win for creators including commercial photographers who work in advertising and publishing fields. In a long awaited victory for the California arts community, the California Board of Equalization voted to clarify the sales tax regulations affecting illustrators, photographers, cartoonists and designers. Heeding the seven-year effort by the Graphic Artists Guild who led the way in this battle, this vote will benefit graphic artists in four ways:

1. It virtually exempts sales tax on all reproduction rights (including royalties) on the artwork of graphic artists.
2. It exempts from sales tax artwork delivered on computer disk if the disk is returned.
3. It exempts sales tax on print design when the designer buys the printing.
4. It clearly specifies that commercial photographers working in the advertising and publishing fields are considered graphic artists.

ASMP president Dave Harp commended the Graphic Artists Guild for leading the fight to benefit the California creative community and said that ASMP was proud to be part of the effort. "The Graphic Artists Guild has always been one of ASMP's staunchest allies in the legal arena and we know that we'll be working together in future whenever a united front is needed."

"This is a another clear victory for us," said Lloyd Dangle, Graphic Artists Guild national president, the initial organizer of the Guild's sales tax effort. "The BOE has recognized that our work is about creating and licensing intellectual property. Finally, they have shifted away from taxing our work as tangible merchandise."

This decision comes nine months after the California Supreme Court found that illustrator Heather Preston was unfairly required to collect sales tax on the licenses of reproduction rights and royalties to her artwork. Regulations 1540, 1541, and 1543 were rewritten in light of the Preston decision.

The Graphic Artists Guild's Northern California chapter has been pursuing sales tax reform for artists through the California State Legislature and the California Board of Equalization since 1996. This ambitious campaign began in response to punishing and unfair audits on some of its members.

Along with ASMP, Advertising Photographers of America and American Institute of Graphic Artists as well as the Association of American Advertising Agencies, the Motion Picture Association of America, and Editorial Photographers, joined the Guild in this effort. More information at <http://norcal.gag.org>. ∞

# NewMembers'Zone

The following have applied for membership in ASMP. Any comments, either positive or negative, relating to these applicants should be sent to the Membership Coordinator at ASMP Headquarters. After 20 days, applicants with no unfavorable comments shall be accepted.

Shan Gordon BLT GM  
*H. Korn H. McCray*

Judy Davis CAP TRGM  
*P. Krogh A. Hoachlander*

Peter Gridley CAP GM  
*D. Brack R. Rathe*

Craig M. Kerns CFL STUD  
*Daytona Beach Community College*

Marla Lampert CFL STUD  
*Daytona Beach Community College*

Kathleen P. Erickson CHI TRGM  
*N. Schierstedt R. Wehmeier*

Carol Corn CO GM  
*B. Schneider J. Hallmark*

Diane M. Meyer CO GM  
*J. Underriner T. del Amo*

Jim Gregg CO STUD  
*Art Institute of Colorado*

Judi Bufkin CO STUD  
*Art Institute of Colorado*

Sarah Cliff-Robertson CT STUD  
*Rochester Institute of Technology*

Annaliese J. Moyer CVA AS  
*W. Allard M. Bailey*

Tony Giammarino CVA GM  
*D. Everette S. Brown*

Susan Turner FOR IM  
*D. Gatley R. Burroughs*

Michael L. Chapman HTX AF  
*N. Baker T. Manske*

Rodolfo Hernandez HTX GM  
*T. Manske J. Caldwell*

Alison J. Bank LA STUD  
*Brooks Institute*

John Russo LA GM  
*B. Frankel R. Barnes*

Pascal Rozmiarck LA GM  
*B. Frankel R. Barnes*

R. Aaron Raymond LA STUD  
*Brooks Institute*

Mark R. Eliason MIN AF  
*R. Komis I. Werthmann*

Peter Lee MIN GM  
*B. Kluckhohn I. Werthmann*

Steve Wewerka MIN GM  
*D. Knutson D. Marshall*

Jamie Schapiro NC AS  
*H. Lingl S. Whittaker*

Jim Dines NC GM  
*S. Whittaker L. Burr*

Rob Pike NE TRAS  
*C. Navin J. Flynn*

Steve Lewis NE GM  
*N. Horton K. Tarantola*

William Thuss NE REGM  
*Membership Committee*

John Paul Endress NJ GM  
*L. Fisher B. Blanchard*

Lori Zaslow NJ AF  
*B. Blanchard S. Poor*

Alan K. Stoker NM AF  
*R. Reck P. Dechert*

Albert Vecerka NY AS  
*P. Warchol B. Cunningham*

Ciaran Tully NY AF  
*P. Gregoire J. Stuart*

Deborah Aromin NY AS  
*B. Katz T. Werner*

Frank Cutler NY AF  
*B. Katz T. Werner*

Julia Fishkin NY AF  
*R. Ripps T. Werner*

Louis Lanzano NY GM  
*L. Bobbe N. Ney*

Stephen M. Paredes NY AS  
*P. Harbron T. Werner*

Carl Quedenfeld OHV TRAF S.  
*Richardson D. Pavese*

Kathryn Haupt OHV STUD  
*IUPUI*

Mario Powell OHV STUD  
*Antonelli University*

Annette Gibbons PA STUD  
*Community College of Philadelphia*

Edward A. Massarsky PIT AF  
*J. Wolf R. Engelbrecht*

Stephen Gross PIT GM  
*A. Carpenter M. Portland*

Carole Archer POR TRGM  
*C. Hazen J. Hart*

Martin Sundberg POR AS  
*J. Hart M. Dahlstrom*

Bob Crosby SD GM  
*D. Gatley R. Garrison*

Jim Pidgeon SD TRGM  
*T. Keck D. Gatley*

Robert Gallup SNW AF  
*S. Westmorland D. Busher*

Steve Rice SNW AF  
*D. Plummer D. Busher*

Steve Satushek SNW GM  
*M. Turner M. Brown*

Steven E. Miller SNW AF  
*D. Lamont S. Fitzhugh*

Suzanne K. Saylor SNW AF  
*P. Bennett D. Busher*

Bethany L. Jackson STL STUD  
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David E. Kennedy STL GM  
*D. Ulmer J. Rinehart*

Michael Marxer STL GM  
*D. Donovan J. Kennett*

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ASA	Austin/San Antonio
BLT	Baltimore
CAP	Capitol Region
CFL	Central Florida
CPA	Central Pennsylvania
CVA	Central Virginia
CHI	Chicago/Midwest
CO	Colorado
CT	Connecticut
DTX	Dallas
FOR	Foreign
HI	Hawaii
HTX	Houston
MAM	Kansas City./Mid-America
LI	Long Island
SC	Los Angeles
MIC	Michigan
MIN	Minneapolis/St. Paul
NE	New England
NJ	New Jersey
NM	New Mexico
NO	New Orleans
NY	New York
NRC	North Carolina
NC	Northern California
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ONC	Ohio North Coast
POR	Oregon
PA	Philadelphia
PIT	Pittsburgh
SD	San Diego
SNW	Seattle/Northwest
FL	South Florida
STL	St. Louis
TN	Tennessee
SLC	Utah/Mountain West
WNY	Western New York

up image search engines, such as Arriba Soft's Arriba Vista Image Searcher, DiggIt! Image Search, and other infringers that seek to make 'easy millions' using intellectual property without license," said Kelly.

"I am also pleased to see the decision that image search engines can use thumbnail images under 'fair use' so long as they link directly to the webpage to show the image in its original context as it was intended by the website owner! This puts them on the same par as text engines and will enhance their usefulness for all concerned. To isolate images and present them outside the context of the original purpose of the website owner is now very clearly illegal!

"It should be carefully noted that this decision affirms that existing US Copyright Law protects images located on the Internet.

"I wish to thank my attorneys, Charles Ossola, Arnold & Porter, Washington, DC, who handled the appeal process before the Ninth Circuit Court of Appeals, Jule Sigall, Arnold & Porter, who assisted with the case, and to Steven L. Krongold, Arter & Hadden, Irvine, Calif., who prosecuted the case before the US District Court in Santa Ana.

"I also wish to acknowledge the strong support of creators of intellectual property worldwide who have been supportive of my actions. The list includes Vic Perlman, American Society of Media Photographers, Inc., Philadelphia, Steven Schubert, Graphic Artists Guild, New York, The Author's Guild, Inc, North American Nature Photography Association, National Music Publishers' Association, The Harry Fox Agency, Inc., American Institute of Graphic Arts, American Society of Journalists and Authors, Visual Artists and Galleries Association, Inc., The National Writers Union, The Picture Agency Council of America, The Association of Medical Illustrators, and The Society of Illustrators," said Kelly. ∞

# Classifieds

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