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WINTER 2006

ASMP BULLETIN

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NEW YORK

AMERICAN SOCIETY OF  
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# image06

# CALL FOR ENTRIES

[WWW.ASMPNY.ORG/IMAGE06.HTML](http://WWW.ASMPNY.ORG/IMAGE06.HTML)

#### SUBMISSION INFORMATION

Open to professional and student photographers residing within the United States. Submit one or more of your favorite images that were created after January 1st, 2005. Entry deadline is May 5th, 2006. Enter online at <http://www.asmpny.org/image06.html>



#### AWARDS

##### First Prize:

Winners from the Professional and Student categories will receive a Fuji S-9000 camera, a Tamron AF70-300mm /4-5.6 lens, model AF275, and a one year Digital Railroad membership. Winners will also be published together in a one page promotion in Photo District News (excellent exposure) and will have their image printed on a promotional mailer that will be sent to 2000 Art Directors, Art Buyers and Photo Editors in New York City and throughout the US. Winning images will also be part of the image06 exhibit in a New York City art gallery.

##### Second and Third Prizes:

Second and Third place winners in both categories will each receive a one year Digital Railroad membership and have their image printed on a promotional mailer that will be sent to 2000 Art Directors, Art Buyers and Photo Editors in New York and throughout the United States. Their winning images will also be part of the image06 photo exhibit in a New York City art gallery.

For information about Honorable Mention, and Judges Choice Awards, please visit us on the web: <http://www.asmpny.org/image06.html>

##### Judges:

**Klitos Teklos**, *Art Director*, Surface magazine  
**James K. Colton**, *Photography Editor*, Sports Illustrated  
**Kiana Malekzadeh**, *Gallerist*, Kiana Malekzadeh Gallery  
**Cindy Rivet**, *Co Managing Partner*, Art Buying, Ogilvy  
**Cristina Spiridakis**, *Art Buyer*, Euro RSCG

Top Image:  
First Prize Professional image05 Winner Monika Marva

Bottom Image:  
First Prize Student image05 Winner Charlotte Osterwang

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ON OUR COVER: © C. Taylor Crothers. In addition to covering live concerts and producing shots to adorn albums and collateral material for major record labels, C. Taylor Crothers's photographs have been featured in music and general interest magazines. He shot this image of Jeff Tweedy, lead singer and songwriter for the band Wilco, in his studio in New York City for *Guitar World* magazine.

THIS PAGE: © Josh Gerritsen. Skidmore College senior Josh Gerritsen has been photographing college theater and dance performances since freshman year. Working two or three shows per semester has given him a lot of practice that will be beneficial to his future career. Pictured here, a ballerina curtsies at the beginning of the musical *Once Upon a Mattress*.



© Clem Spalding

Clem Spalding, my first vice president and friend, took my photograph this month. Clem is a people and lifestyle photographer serving a wide variety of corporate and advertising clients. By staying focused on customer service and image quality, Clem has weathered the difficult transitions of our time, maintaining a solid business for more than 20 years. A longtime ASMP volunteer, Clem has served on the national board since 2001 and is currently spearheading the constitutional referendum.

# PRESIDENT'S LETTER

## THE ART OF SEEING AND THE GIFT OF GIVING BACK

I love making photographs, from finding the subject matter to watching the light and capturing the image, it is a process I never tire of and long to repeat. The art of seeing is a lifestyle not a profession, and like most photographers, I came to the business of photography because of this passion. I simply could find no other way I wanted to spend my time. This driving force keeps me going even when the stresses of business are heavy.

Photography is often a solitary activity. You must enjoy your own company to endure the early mornings, late nights, travel, deadlines, and long hours often associated with "getting the shot." But then again, that is the easy part, even the fun part. The demands of running a small creative business in a commoditized economy are vast. We need profitability, yet a balance of market forces and personal sensibilities is often difficult to find.

I have weathered these trials thanks to the camaraderie and generosity of fellow photographers. The ASMP has been the instrument that fostered these relationships. No one understands the idiosyncrasies of this business better than a peer, which is why the phrase *photographers helping photographers* is such an honored ASMP tradition.

My business was seven years old when I joined the ASMP. Prior to our membership, my business partner and I struggled alone with client issues, quotes, and contract woes. We used some of the organization's resources as a guide, but the missing ingredient was the human connection to others who were facing the same issues. We decided to attend a *Strictly Business* seminar and joined the ASMP as part of that weekend. The business skills we learned and the people we met helped us sow the seeds of prosperity for our business that is now in its nineteenth year. It is not an exaggeration to say that if I hadn't joined the ASMP back in 1995, it's likely my business would not have survived.

Without the ASMP, the extreme economic challenges of the last three years and the necessary transition into digital would have been insurmountable. The community of the ASMP—my chapter, my

specialty group, various listservs and individual friends—gave me the tools I needed to move forward during this difficult period.

The ASMP is fortunate to have a dedicated and hardworking staff, but the society's core and true leadership lies in the hands of our members. Hundreds of your fellow members volunteer each year for leadership service and without this commitment this organization could not stay viable or relevant.

The ASMP needs new leaders and I urge you to look within yourself, examine your specific talents and find what you can offer to make our association stronger. The potential for productive leadership is not limited to a rarified few, and before you ask what the ASMP has done for you lately, consider asking what you can do for the ASMP.

Just as in our own businesses, how much we invest of ourselves has a direct correlation to how much we receive in return. Looking back on my own years of ASMP service, I can genuinely say I have received more than I have given. The hours of hard work are real, but the personal rewards of friendship, knowledge, skills and satisfaction are priceless. It has been an honor serving as your president for two years, and as I move into my post-leadership life, I am strengthened by the understanding that I have been part of a long history: I believe I have made a difference and that others will follow and continue the work.

Robert Adams, photographer and writer, eloquently states how I feel about the photographic process in *Why People Photograph*, "At our best and most fortunate we make pictures because of what stands in front of the camera, to honor what is greater and more interesting than we are. We never accomplish this perfectly, though in return we are given something perfect—a sense of inclusion. Our subject thus redefines us and is part of the biography by which we want to be known."

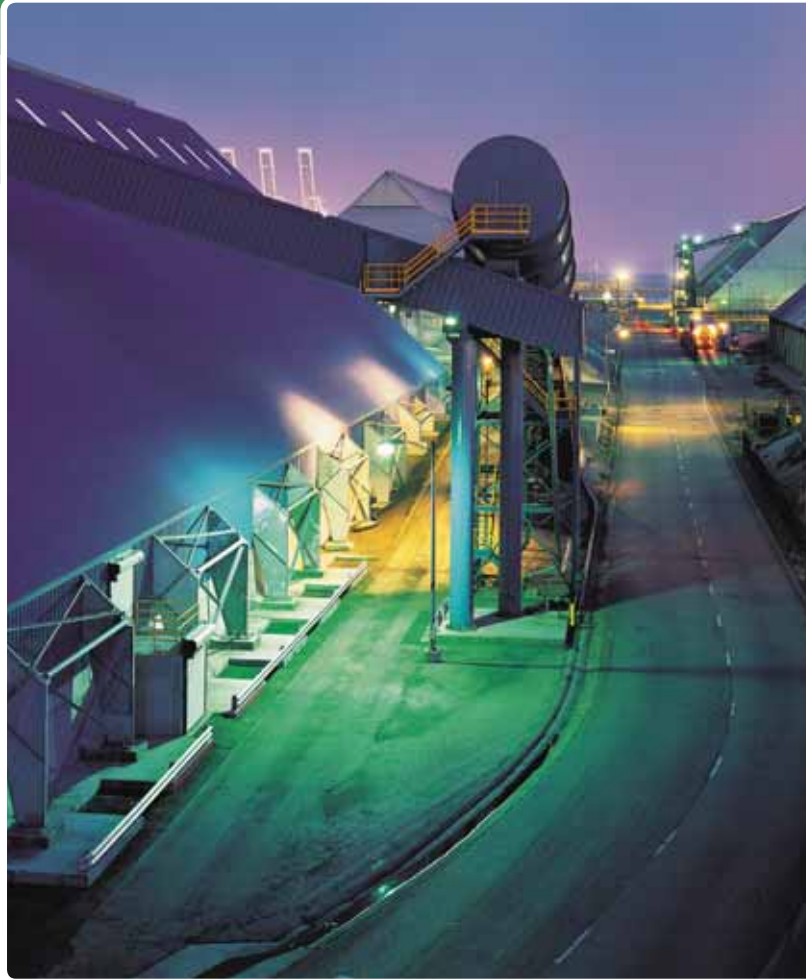
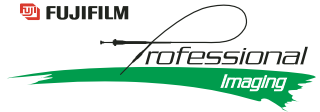
The ASMP can be part of your biography—join us.

Susan Carr  
President, ASMP



**THE LIGHT CAN CHANGE. YOUR GOALS CAN CHANGE.  
BUT YOU STILL WON'T HAVE TO CHANGE YOUR FILM.**

TOM PAIVA



© 2005 Tom Paiva

Fujichrome Velvia 100 Professional 4x5 Format



**In a digital age, is it possible to have a renaissance in film?** For Tom Paiva and a host of other professional photographers, the answer is, yes. Consider Velvia 100 and the array of other new films that Fujifilm continues to develop. Shooting under difficult conditions that require long exposures can push the limits of photography but not the limits of Velvia's richly saturated color, finer grain, balanced neutrals and the extreme versatility of ISO 100. Building on the legacy of Velvia 50, this is a film that captures time and color in an extraordinary way. Add improved archival characteristics and accurate color rendition - even when the film is pushed or pulled - and you have a film that you can count on in the broadest range of shooting situations. Part of the continuing renaissance in film from Fujifilm.

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ASMP was founded in 1944 to promote high professional and artistic standards in photography and to further the professional interests of its membership by disseminating information on a range of subjects and concerns. ASMP has a membership of more than 5,000 of the world's finest photographers.

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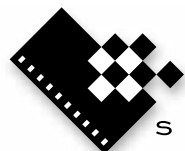
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# HOW TIME FLIES WHEN YOU'RE HAVING FUN!

Three years! It has been three years since I made the move from protecting and promoting my own interests to protecting and promoting the interests of ASMP members. After 32 years of self-employment and many years of ASMP volunteer work, I became a member of the ASMP staff, working closely with the members of the board, and in particular past president Stanley Rowin and current and retiring president Susan Carr. Together we—staff, board, volunteers and members—have accomplished much in a very short time.

On the advocacy front, the ASMP has supported photographers fighting the *Boston Globe* and *New York Times* contracts, provided detailed analysis of the Condé Nast and Knight Ridder contracts, rebuffed Getty Images over its approach to the NHL and negotiated new terms with the American Institute of Architects (AIA) Competition Permission Forms. We are working with other trade associations to combat “custom stock,” and we are working with the Copyright Office on the issue of orphan works (most simply, works whose rights holders cannot be located).

On the legal front, we supported *Penny Gentieu v. Getty/TSI* through the ASMP legal action fund, and we have participated in the Grokster case, the Verizon case, as well as the Faulkner et al. and the Jerry Greenberg cases against National Geographic. The ASMP's counsel, Victor Perlman, works to keep the ASMP and its members on the forefront of legal advocacy. See Victor's Legal Review starting on page 23 for more about the ASMP's involvement in ongoing cases.

The ASMP Web site has been redesigned and expanded with substantial new content including the Copyright Module, the Property and Model Release Module, the Road Warrior Module, and the Chapter Resource Center, along with links to timely information on ASMP elections, referenda, and member activities. Find a Photographer has been upgraded to include images and more complete member information. Find a Photo has just been launched to enable our members to engage in direct sale and licensing of their images on the Web. Copies of the award-winning *ASMP Bulletin* and *NewsWatch* are archived on the site. The *Working with an Assignment Photographer* and *Working with an Architectural Photographer* handbooks are available in HTML and for PDF download. Valuable member benefits such as health and commercial insurance; product discounts through MacMall/PCMall; discounts on publications; as well as discounts for I View, DriveSavers and PicScout/ImageTracker are all described and linked to in the Benefits area. The ASMP's communications manager, Peter Dyson, works closely with our volunteers to improve and refine all of our communication resources.

ASMP Specialty Groups—for Architecture, Fine Art and Underwater—have prospered and expanded their activities to

include individual listservs. The Architecture group has participated in the last two national AIA conventions and is currently planning for this year's convention in Los Angeles. John Giammatteo acts as liaison between the Specialty Group leadership and the ASMP board.

The *It's Your Business* series, initiated by current board president Susan Carr, is in its third season. These seminars, *Working Digitally; Marketing, Pricing and Negotiating; Thinking Stock; The Digital Makeover Tour; Pixel Cash* and *Web Marketing*, offer valuable programming to members and non-members through the good offices of our ASMP chapters. Special thanks to our presenters Judy Herrmann, Mike Starke, Blake Discher, Betsy Reid, Joseph Cartright, Christopher Lynch, Scott McKiernan and Peter Krogh.

The member database has been redesigned and moved from a proprietary software platform to an open source Web-based platform. Thanks to ASMP technology manager Mike Zornek, members can now update their own information, chapter leaders are better able to manage their own chapters and communicate with others, and the database is integrated with both the ASMP Web site and with features such as Find a Photographer and Find a Photo.

Board member Judy Herrmann created the ASMP ProAdvice listserv as a resource for students and emerging photographers. The list is monitored by experienced ASMP members, who respond to questions on basic business practices, image rights and picture usage, among other issues. *NewsWatch*, the ASMP's biweekly e-newsletter, brings timely information on market trends, technical issues, new member benefits and other issues of concern directly to your inbox.

A coalition of association volunteers, led by board member Richard Anderson, created the Uniform Photographic Digital Imaging Guidelines (UPDIG), available from the home page of the ASMP's Web site. These 15 guidelines—along with additional Best Practices documents—aim to clarify issues affecting accurate reproduction and management of digital files. This is a must-read for all working publication photographers. In late February 2006, Richard Anderson and I will be participating in an International Imaging Industry Association panel discussion on RAW Camera Data at the Photo Marketing Association (PMA) trade show in Orlando.

We—the board, staff and volunteers—are working hard to keep the ASMP the premier trade association for publication photographers. Information, education, advocacy and meaningful benefits are at the core of our efforts. We look forward to serving you in the coming year and know full well that our job is always evolving and is never complete.

Eugene Mopsik  
Executive Director, ASMP

[WINTER 2006]

# NEWSLINE

Check out the new and extensive online guide to copyright on the ASMP Web site. Visit [www.asmp.org/copyright](http://www.asmp.org/copyright) for full details.

## ASMP NORCAL IS MACWORLD HIT

“What is the ASMP and why should I join?” was one of the easier questions fielded by Northern California chapter volunteers who manned the ASMP booth from January 10–13 at the 2006 MacWorld Conference and Expo, in San Francisco’s Moscone Convention Center.

More than 20 chapter volunteers, along with members of San Francisco Digital Imaging Group (SFDIG), also provided professional advice to MacWorld attendees from the adjacent “Doctor Is In” station. They gave camera demonstrations, consulted about camera purchases, and answered myriad questions relating to film and digital cameras as well as imaging.

In return, International Data Group (IDG), the organizers of the MacWorld event, provided the ASMP and SFDIG with a centrally located booth space that was equipped with power, high-speed internet, a Mac G5, and a plasma screen—a package worth \$50,000—for free in return for their photography and digital advice.

This is not the first time that ASMP NorCal and SFDIG have worked together. The two groups coordinate their program calendars and promote each other’s events.

ASMP and SFDIG also organized a free evening event with the *New York Times* technology writer, Steven Pogue, who spoke before an audience of more than 1,000 MacWorld attendees. During Pogue’s lecture, “The Digital Camera of 2015,” top executives from Nikon, Kodak and Canon forecast the screens, batteries, storage devices and software of digital cameras from the next decade through a series of virtual interviews. Pogue, author of the popular “Missing Manual” series published by O’Reilly Media, answered questions from the audience for more than an hour after the lecture.

“I feel the ASMP presence at MacWorld was a huge success in many ways,” reported Northern California chapter co-president Morton Beebe. He credits the success of the chapter’s efforts at MacWorld with raising the ASMP’s profile. “Many people asked to be added to our mailing list for our local newsletter, and several asked then and there for membership applications.”

The MacWorld collaboration was the result of several years of discussions initiated by Beebe with contacts at the IDG. ASMP NorCal chapter members John Jerney, Patrick Dickson, Scott Serata and Robert Ankrum also played major roles in the success of the project.

—Amy Blankstein



The NorCal chapter took every opportunity to promote the ASMP at MacWorld, including prominent signage, branded merchandise and networking with vendors on the convention floor. From left, Steve Whittaker, Morton Beebe, John Martin (SFDIG) and Shawn Gabbard.

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## iVIEW LOOKS AT PHOTOGRAPHER WORKFLOW

**B**eginning in late January, digital asset management software company iView Multimedia Ltd. invited photographers to take part in a survey to determine what workflow means for pro-shooters, how they work and what tools they use or need in order to establish an effective workflow. The company is offering participants a chance to win the newest version of iView MediaPro, version 3, and a copy of *The DAM Book* by ASMP member Peter Krogh.

"iView's growth is based on our dialogue with customers," said iView's founder, Yan Calotychos. "Surveys like this are part of that dialogue. They help

us reach out to a broad spectrum of photographers. We rely on their feedback to inform our product development."

The results of the iView online survey, which launched in late January and will close on February 20, will be announced at the Photo Marketing Association (PMA) trade show, to be held in Orlando, Florida, from February 26 through March 1.

In addition to announcing the results at the PMA, iView will publish the survey results on its Web site, <[www.iView-multimedia.com](http://www.iView-multimedia.com)>.

—AB



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# OPENRAW SEEKS INPUT

**O**N JANUARY 31, 2006, the OpenRAW initiative launched an international survey on its Web site <[www.openraw.org/survey](http://www.openraw.org/survey)> to collect information about the experiences, requirements, preferences and concerns of digital photographers and other interested parties regarding RAW imaging technology.

The OpenRAW survey will give photographers and other imaging professionals an opportunity to have a voice in the further development of RAW imaging technology.

Although many digital photographers regard RAW technology as the best way to produce the highest image quality, the absence of a common standard has created concern among photographers and archivists over the issue of long-term access to photographic material produced in RAW formats.

Proprietary RAW formats can vary, not only from manufacturer to manufacturer, but even from camera model to successive camera model. The practice of encryption to conceal information has already caused concern, as imaging professionals have faced limitations in their choice of software tools, as well as disruptions in their digital workflow.

According to OpenRAW, some manufacturers whose cameras produced proprietary RAW files have already gone out of business, which leaves photographers uncertain about the consequences for future access to those images. Even if manufacturers remain in business, photographers also face the concern that RAW files from current camera models may not be accessible when these models are discontinued.

OpenRAW invites your input. The online survey questionnaire will be available for eight weeks, through the end of March.

—AB

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## NEXT GENERATION COLOR CONTROL WON'T BREAK THE BANK

In October 2005, the color technology company Datacolor debuted a new precision profiling tool at Photo Plus Expo in New York. This product, PrintFIX PRO, is a new color management tool for RGB printers. The device comes bundled in a package that boasts spectro-technology, the Datacolor 1005 Spectrocolorimeter, patch reading hardware and stand-alone software. The software creates spectro printer profiles that support all RGB-driven inkjet, dye-sub, thermal, chemical and laser printers. PrintFIX PRO also provides users with greater flexibility and a richer interface in a stand-alone software application. Spectro-

technology enables support of a wide range of media, especially third-party fine art papers, third-party inks and an unlimited range of RGB-driven printers.

In order to build accurate and consistent profiles on multiple printers, inks and papers, the PrintFIX PRO patch reader uses the patented LED-based Datacolor Spectrocolorimeter 1005 device to measure calibration targets and save the data in the L\*a\*b format color space. It also offers options to use a greater number of color samples in order to produce more accurate color profiles. The new 1005 Spectro is a native USB device, so there are fewer cables and no external power supply requirements.

PrintFIX PRO rests on a calibration base when not in use. The base incorporates a spring-loaded wheel containing the device's calibration tiles—critical to maintaining instrument accuracy over time—and ensures the tiles are always on hand when needed.

The PrintFIX PRO is available in stores starting in January 2006 and has a suggested retail price of \$549. For more information and to read a review of the PrintFixPro by ASMP member John Blaustein, visit <[www.asmp.org/commerce/business\\_article\\_026.php](http://www.asmp.org/commerce/business_article_026.php)>.

—AB

## PICSCOUT SCOURS THE NET FOR INFRINGEMENT

The internet made life easier for copyright infringers to appropriate images, but enterprising companies are taking advantage of search and scanning-related technologies to enable photographers to better manage and protect their work. Using proprietary image recognition software and robust internet crawling technologies, PicScout <[www.picscout.com](http://www.picscout.com)> scans commercial Web sites in search of images, then compares those images with the photo database of its subscribers.

The company e-mails reports on each use of subscriber's images; clients can also access reports through their Image Tracker account on line. The photographer or his or her agency follows up to negotiate a license for the unauthorized use or can choose to have PicScout do the work for an additional percentage. PicScout receives 50 percent of the revenue subscribers recover based on reports from the system, payable after the fees are recovered (it relies on its subscribers to volunteer all recoveries). The company donates 10 percent of this revenue share back to industry causes.

After nearly two years of subscribing to PicScout's tracker services for agencies, Jeff Schultz, ASMP member and owner of AlaskaStock.com, says that he is pleased with the results. The service has picked up many infringements since he started subscribing. In the instance of one photo, PicScout's crawlers reported more than 100 Web sites using the image without permission.

"It's a significant amount of income we wouldn't have otherwise," Schultz says. "It's more than paid for the service."

PicScout also offers compliance services for photographers who don't have the expertise or time to follow up on potential



PicScout caught more than 100 Web sites using this image of Hubbard Glacier calving through Alaska's Russell Fjord Wilderness.

© Mark Newman/AlaskaStock.com

infringements. PicScout will establish a case and gather required proof, as well as verify registration of images with the Library of Congress. PicScout's staff will then make the infringing party aware of the case, establish fees, negotiate a settlement and collect payments. Although the company will not register copyrights for clients, subscribers can register them through a partner company, Copyright Website <[www.benedict.com](http://www.benedict.com)>.

ASMP members who sign up for a year of PicScout's Image Tracker for Photographers service now get an additional two free months of coverage. For more information on this and many other member discounts, visit the ASMP's home page or this link: <[www.asmp.org/membersarea/benefits.php#picscout](http://www.asmp.org/membersarea/benefits.php#picscout)>

—AB

## IN SEARCH OF THE "EVERY MAN"



**ON ASSIGNMENT**  
with Arthur Leipzig

*On Assignment with Arthur Leipzig*  
by Arthur Leipzig  
Long Island University Press, 2005  
Hardcover, 183 pages, 105 photographs  
ISBN: 0913252026, \$48.00

As a photographer of the “every man,” ASMP life member Arthur Leipzig spent more than 60 years documenting the lives and livelihoods of people around the world during his many photographic assignments. Born in Brooklyn, N.Y., Leipzig worked a range of jobs as a young man before becoming injured while working in a glass plant. Prompted by the advice of a friend, he used the small compensation he received to enroll in photography lessons at the New York Photo League with the legendary Sid Grossman, and his life as a humanistic photographer began.

The book’s images were selected from more than four decades of Leipzig’s assignments for magazines such as *Fortune*, *Look*, *Parade* and *The New York Times Magazine*. The subjects range widely—from underground coal miners in Virginia to a community of Ethiopian Jews to winter fishing in the North Atlantic, to name a few. But it is Leipzig’s photographs of children that tell us the most about him as a caring, compassionate photographer. Whether photographing children at play (he began his first self-assignment and photo essay, *Children’s Street Games*, in 1943 and continued working on it through the 1960s), children in hospitals or children found in a variety of situations around the world, Leipzig caught their moments of joy, sadness and contemplation eloquently through his camera lens.

Long Island University, where Leipzig taught for 28 years and where he is now a professor emeritus, published the book, which includes an insightful forward by Anne Wilkes Tucker, curator of photography at the Museum of Fine Arts, Houston.

—Monica R. Cipnic

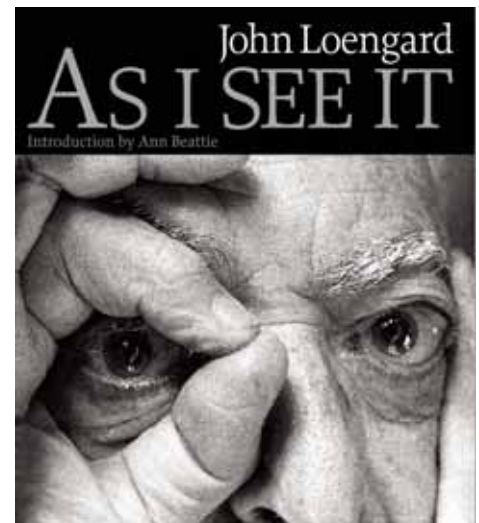
## EVERY PICTURE TELLS A STORY

For John Loengard, “distilling reality” means seeking and photographing people and situations that hold a particular or even odd nuance. This approach has been the hallmark of his distinguished 50-year career as one of the great *LIFE* photographers and later its picture editor. Loengard has assembled his most iconic black-and-white images in this memorable and well-designed book, in which every picture tells a compelling story of the creative dynamic between people and things. Loengard’s photographs are imbued with an intellectual curiosity, and the images go far beyond the literal to resonate with the viewer. With his remarkable talent of drawing people out, Loengard in many instances captures in his subjects a defining gesture or an indirect gaze while they are unaware. The strength of these compositions are in their subtleties. Articulately, and at times with his dry sense of humor evident, Loengard describes his thought process about each photograph and his strong opinions about photography in the notes at the back of the book.

The book, which includes a dedication to Bob Adelman, a “superb photographer, indefatigable book producer and great friend,” and an inviting introduction by well-known author Ann Beattie, John Loengard has succeeded admirably in his ambition, “to produce something of lasting interest, [that] is the bedrock of this book.”

This book was accompanied by a five-city exhibition tour that appeared at the following galleries through January 2006: Apex Fine Art, Los Angeles, CA; Gallery M, Denver, CO; The Arts Company, Nashville, TN; Madelyn Jordon Fine Art, Scarsdale, NY; Leica Gallery, New York, NY.

—MRC



*As I See It*  
by John Loengard  
The Vendome Press, 2005  
Hardcover, 216 pages, 130 photographs  
ISBN: 0865651671, \$35.00

# LYNN GOLDSMITH WHO ARE YOU?

This issue debuts a new section of the bulletin called "Behind the Shot". Dedicated to profiles of photographers with assignments or projects that demonstrate exceptional merit and unique points of view, we are interested in considering work from ASMP members across a wide range of specialty and technique. To be considered for future issues, please send a brief text describing your work to senior editor Jill Waterman at: [jwaterman@pdnonline.com](mailto:jwaterman@pdnonline.com). Due to the volume of submissions received we may not acknowledge submission receipt. However, we will be in touch if your work is shortlisted for a future issue.

Lynn Goldsmith knows a lot about the issue of identity. Music and celebrity are the center around which her long and successful career has revolved, yet she has played multiple roles within this realm—from live television concert producer to band manager to photographer and owner of her own picture agency. Goldsmith solidified a reputation for herself in creating iconic images—and identities—of some of the most recognizable people in the world.

Goldsmith sold the LGI Photo Agency in 1997 so that she could focus more energy on producing, rather than managing, photography. One of her many current projects is a fine art series, "In the Looking Glass," in which she explores the concept of identity firsthand.

Goldsmith photographs department store windows with a Mamiya 645 and a Leaf Valeo back, then she manipulates the digital captures to create intricate tableaus, often composed of as many as 30 to 40 separate elements. She inserts her own likeness onto the mannequins and into the scene, and she enacts a wide range of characters by employing both physical makeup and virtual Photoshop effects.

"The whole idea [behind this series] is to question what the difference is between what's imagined and what's real," says Lynn. "It's an



© Lynn Goldsmith

In the image above "Pink Panther Party," Goldsmith plays with her identity as a Sixties era radical.

exploration into identity, particularly my own, questioning who a person is because of the way they're dressed, the props they have or the environment they're in"

Goldsmith works on these pieces much like a painter, building them up gradually over time and proofing images in progress to study the compositions while they are being built and refined. Her manipulation of the image extends to the removal of details, the replacement of objects and the change of color palettes. A great deal of finessing is involved to integrate the many Photoshop layers into an image that appears seamless.

—AB

MARK H. BARINHOLTZ, P.C.

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# OUTSTANDING VOLUNTEERS



© Richard Khanlian

A nostalgic image from Khanlian's years working in France for the *New York Times*.

## RICHARD KHANLIAN NEW MEXICO CHAPTER

Among the members of the ASMP's New Mexico chapter, the rock solid contributions of Richard Khanlian stand as tall as his towering frame.

"I love Richard Khanlian," effuses Jeff Caven, past president of ASMP New Mexico. "He was communications director during my tenure and I totally counted on him. He really rescued me a lot."

"Richard has a long and deep career in photography," says Robert Reck, current chapter president.

Khanlian's early career included work in France from 1964–67 for the International edition of the *New York Times*. After returning to the states, Khanlian worked in New York for a stretch before moving to New Mexico. In addition to photography, he has worked in such diverse fields as woodworker, math teacher and public relations for the Albuquerque school system. Khanlian was

already an ASMP member when the New Mexico chapter was formed in the Eighties.

"He's been one of the prime supporters of the chapter," notes founding chapter member Ron Behrmann. "If there was something you needed to get done, Richard would do it," Behrmann adds. "It didn't have to be a glory job."

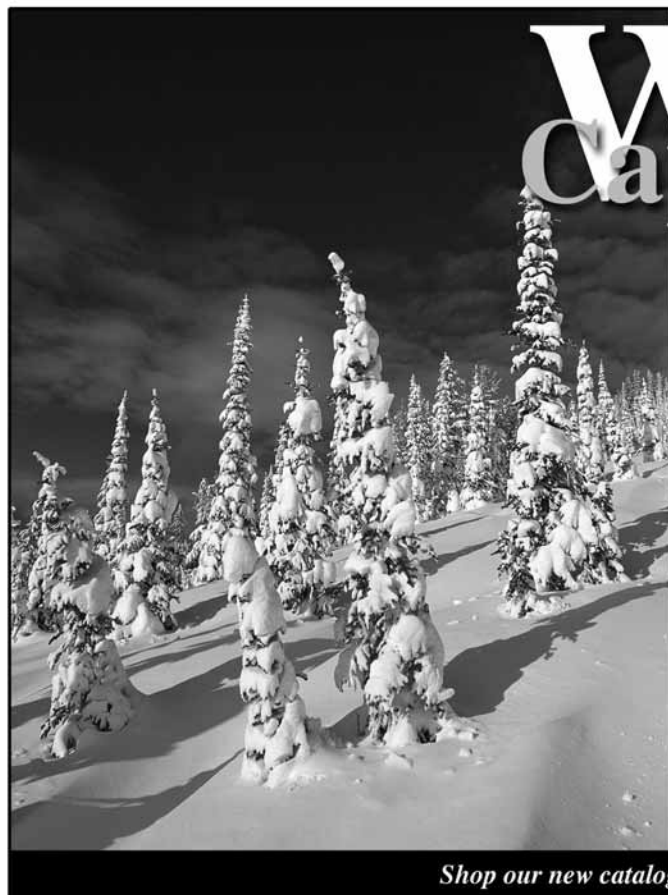
"Richard contributes in the most professional way," explains chapter vice president Tony Bonanno. "He really cares about photography as a business and a passion."

Khanlian has fully adopted digital and, together with Bonanno, recently offered a digital fundamentals workshop to chapter members. Bonanno sums up a tribute to Khanlian nicely.

"He's one of the reasons that I'm glad to be part of ASMP New Mexico."

Hats off and thanks to Richard Khanlian for his long-standing dedication to the ASMP.

—Jill Waterman



# Winter Capture


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# NEED A [DIGITAL]

## DIGITAL TECHNICIANS AND SAVVY ASSISTANTS OFFER CRITICAL SUPPORT SERVICES

**B**altimore-based photographer Richard Anderson knows a great deal about digital photography. He has employed an all-digital workflow for more than four years, he dedicates time each day to studying digital developments, and he represents the ASMP in an industry initiative to create standard digital guidelines <[www.updig.org](http://www.updig.org)>. However, Anderson still relies heavily on the support of three digitally skilled assistants. At the same time that Anderson needs digital assistance, he also provides digital consulting services to colleagues who are less knowledgeable than he is.

Anderson represents a new reality of digital photography: Photographers need extra help to accomplish many tasks in their heavy digital workloads, and they constantly need to update their skills to keep up with developments in the digital realm. At the same time, these photographers often have the capacity to help other photographers—and to make good money in the process.

### THE EVOLVING DIGITAL LANDSCAPE

While the digital imaging revolution has left all photographers scratching their heads about some aspect of the new technology, the evolving landscape of digital photography has also created new opportunities. One intriguing niche generated by an increasingly digital workflow is the emergence of the digital technician—a new breed of professional ready to step in and provide a wide variety of critical photographer support services.

New York-based photographer and digital technician Von Thomas has clearly seen the advantage to offering digital support services. An early convert to digital with a background in computer technology, Thomas began serving as a digital tech three years ago when the demand for such tradespersons was first emerging in earnest. His initial success in this field has enabled Thomas to open Digital Tech NYC, a company that provides equipment and techni-

cians for high-end shoots. “I’m still a shooting photographer,” says Thomas, “but while the shooting competition remains fierce, the need for highly qualified digital techs and related services is only growing.”

Working with the most advanced digital techs has become an unavoidable necessity for photographers working on high-end shoots that require digital capture backs, on-site computers, and on-location file management, manipulation, and delivery. Many seasoned pros—still struggling with the digital learning curve—simply couldn’t meet their clients’ needs without this degree of support. Yet—just as it is impossible for a photographer to position all his own lights, even the most technically savvy photographers are compelled to call on the services of digital techs—the digital workload of



© Richard Anderson

Art director Kris Rifkin holds the MacBeth 24 color checker while Richard Anderson's tech assistant determines the correct white balance in Adobe Bridge.

# HAND?

a large-scale shoot has grown too intense for one person.

In today's imaging landscape, rapidly improving digital SLRs are sufficient to handle the majority of jobs, and most photographers don't require the services of the most highly skilled digital technicians. Yet smaller-scale DSLR shooters are still very much in need of digital assistance. From understanding how to set custom white balances to overcoming time-consuming digital workflow issues, photographers need timely, competent digital help to keep their businesses viable.

This is why digitally savvy photography assistants are quickly becoming the professional photographer's secret weapon for thriving in the digital age. Unlike full-blown digital techs, these assistants might have only one or two areas of digital expertise. The seasoned pro's job is to find a digital assistant best suited to a particular need, and determine how to best employ his or her skills. Those seeking to work as a digital assistant should clearly identify the commercial and professional value of their individual skill set.

## DIGITAL TECHS DEFINED

"Digital implies everything to everybody, but it means nothing to anyone," says New York-based photographer Joseph Cartright. One of the problems facing photographers in the digital age is a lack of universal language and a clear understanding—by all parties involved in the digital workflow—of exactly who needs what help with which services. This confusion of language extends to a specific definition of exactly which services a digital technician can provide. Terms such as digital technician, digital assistant, digital imaging specialist and digital capture technician don't have a strict definition. And the vast amount of technical specialization ushered in by digital photography assures that no one can know it all. A skilled digital tech may have extensive expertise in two types of capture software but might not know much about a third. Inversely, a freshly graduated photography student might not pass muster as a digital tech, but he or she might have a high aptitude for the intricacies of color management or workflow automation—skill areas that still baffle a number of successful pros.

In general, the term "digital technician" refers to the most technically savvy operators of medium- and large-format digital capture devices, such as systems manufactured by Leaf and Phase One. These experts know how to smoothly bridge the gap between a client's needs and a photographer's skills and style. Most important, they know how to handle, with a cool head, any technical problems that arise during a shoot.

High-end digital techs have an amazing degree of computer expertise, in-depth knowledge of multiple digital camera systems,

## THE ECONOMICS OF DIGITAL ASSISTANCE

"EVERY PHOTOGRAPHER is drowning in production work," says Peter Krogh, ASMP board member and digital workflow expert. "The problem," Krogh explains, "is that the nature of digital photography has increased a photographer's responsibility for post-production work that, until recently, was handled by professional photo labs." In order to cope with this workload, even photographers who consider themselves experts must turn to digital techs and assistants (and even other pros) to help them both to learn and execute the time-intensive aspects of digital imaging.

Unfortunately, too many photographers think of digital assistance as an additional expense they cannot afford. But the simple truth is that regardless of a project's complexity, for photographers to succeed in today's marketplace they must allocate to digital techs and assistants the funds previously directed to the labs. However, many photographers have been slow to appropriately charge for digital production services. "Digital has changed the economics of photography," says Krogh, "and photographers must realize that they need to bill clients to adequately compensate them for the time they spend to accomplish digital tasks."

In pre-digital days, if a job required two on-location assistants, a photographer wouldn't think twice about quoting this expense to a client. In the digital days, photographers need to increase their awareness of specific digital costs—from paying for the services of an on-site digital tech to hiring a post-production digital assistant to prepare hundreds of files—and they need to pass these expenses along in a way that makes the expenses transparent to clients.

and a strong background in image file management and preparation for client delivery. They sometimes provide rentals of their own equipment, and they can always procure the right equipment for any job due to close working relationships with local rental houses. These techs are constantly educating themselves, keeping abreast of new developments in the field, and they have the capacity to educate the photographers who are their clients. They can save thousands of dollars on an assignment by increasing workflow efficiency and averting disasters.

Yet, the majority of self-identified digital technicians have a much narrower skill set than this. Many digital technicians—even those with certification—are conversant with only a limited range of equipment in specific, consistent workflow scenarios. "When it comes to digital technicians," says Thomas, "what separates the men from the boys is the depth of the tech's knowledge, and the tech's ability to problem solve and to anticipate a photographer's needs."



© Richard Anderson

Anderson's client was the University of Maryland Medical Center. The images he shot will likely be used in UMMC's 4-color newsletter or on its Web site.

### THE 21ST CENTURY PHOTOGRAPHY ASSISTANT

Perhaps one of the least acknowledged consequences of the digital revolution is the shifting role of photo assistants. Until very recently, the primary assets photographers sought in their assistants were a can-do attitude, the aptitude and desire to succeed in photography, and the ability to work long, hard hours. But these days, the digital skills an assistant brings to the table make that person much more valuable (or a far greater liability), and it also shifts the nature of the assistant-pro relationship.

"There was a time when you could hire an assistant right out of photo school who really knew his stuff," says Richard Anderson. But Anderson points out that photography schools have only recently begun to teach digital photography adequately. "Because schools weren't teaching digital well enough, photographers couldn't find assistants who were digitally savvy," Anderson adds. "This created an opening for digital technicians."

While the need for high-end digital techs has risen, so has the need for all photo assistants to increase and actively market their digital capabilities. "In one sense, any person who helps a photographer with *any* aspect of the photographer's digital workflow is effectively a digital assistant," says Peter Krogh, ASMP board member and author of the recent *The DAM Book: Digital Asset Management for Photographers*. "While he might not be considered a digital tech, anyone doing any kind of real work on the computer—downloading, backing up, adding metadata and so on—is in a powerful position to increase efficiency or promote disaster," explains Krogh. "And this requires a whole new level of trust, as well as more clearly defined working relationships."

"In digital photography, a little knowledge can be a dangerous thing," says Joseph Cartright. "The more you know, the more you realize how little you know." Therefore Cartright suggests that photographers and assistants should clearly identify their own strengths

and weaknesses. "This makes photographers better suited to assess and hire the most appropriate person for the job at hand," he says. "And it allows techs and assistants to better market their skills."

### EXTRA EARNINGS

When digital technicians first emerged in the industry, there was a great opportunity for digitally savvy assistants to maximize their incomes as digital techs. A highly skilled digital tech can earn between 50 and 100 percent more than an average photo assistant, with day rates running from \$500 to \$1,000, compared to the \$250 to \$400 for a more traditional photo assistant. While the best digital techs are well worth their day rates, it's important to note that having a little digital knowledge—even the ability to run one particular medium-format capture system—does not suddenly make an assistant worthy of such high fees. And in many respects, the golden opportunity of turning basic digital expertise into big bucks has already passed.

A few years ago, as pressure increased for professionals to transition to digital capture, many photographers needed a digital tech to help handle the job and cope with a steep learning curve. At that time, competent digital technicians were few and far between, so high fees were easily obtained by the best.

Yet as digital capture grows in popularity, added pressure is placed on assistants to be digitally competent to earn standard compensation. In short, expanding one's digital skills may not always translate into an increased day rate. However, the assistant with the most digital know-how will definitely be the most employable. And high-end digital techs will continue to command higher incomes and better opportunities than peers with more limited skill sets or less focused digital ambitions.

### FLEXIBILITY, THE ULTIMATE TOOL

While creative and professional flexibility has long been the hallmark of successful photographers, the workflow and business challenges of digital photography have increased the need for fluid adaptability. The simple truth is that the steep learning curve that accompanies the digital revolution will not level out anytime soon, and photographers cannot simply expect to master digital photography and go back to business as usual. After clearly identifying their electronic imaging needs, photographers must now turn to an ever-increasing numbers of individuals—digital technicians, digital assistants and other pros available for consulting—who can help them forge ahead and thrive in the digital age.

*Ethan G. Salwen is a New York City-based freelance photojournalist and writer.*

For more on hiring or working as a digital tech, visit [www.asmp.org/commerce/dig\\_asst.php](http://www.asmp.org/commerce/dig_asst.php).

# A SHOOT TO REMEMBER

In preparation for the second annual Best of Issue of the ASMP Bulletin, we are querying the membership about your most memorable job of the past year.

Any job or assignment is welcome—of any size and in every specialty, from the local to the international. Memorable aspects could include the following: an opportunity for creative freedom, a rewarding collaboration with a client, an achievement in technical prowess, a logistical challenge overcome, an impossible deadline achieved, a budgetary milestone, a stranger-than-fiction encounter, a promotional best and so on. Creative solutions will be highly valued and a sense of humor readily enjoyed.

Please submit a brief (no more than 250 words) description of the project and make sure to specify what made it memorable to you. One low-res jpg file of an image resulting from this project (no more than 100mb) may be submitted with the descriptive text. Please address all submissions to Jill Waterman at: [jwaterman@pdnonline.com](mailto:jwaterman@pdnonline.com), or by mail to the address below:

**Jill Waterman – Senior Editor**  
**ASMP Bulletin**  
**c/o PDN Custom Media & Events**  
**770 Broadway, 7th Floor**  
**New York, NY 10003**

Submissions must be received by June 1, 2006, in order to be considered for publication.

Finalists will be contacted during the month of July for more details about the submitted project. Twenty of the most memorable submissions as selected by our editors will be featured in the Best of Issue, to be mailed in September 2006.

Flip back through your calendar, review your portfolio and prepare your submission today!



© Joe DiMaggio

DiMaggio-Kalish.com



**Joe DiMaggio**

Photographer - Film Director - Photo Workshops



"Photography is my personal means of expression. Hugh Brodie's music is beautiful, avant-garde, extremely complex and at the same time very simple. Brodie has an inner beauty that is impossible to miss. My portrait of Brodie is more Brodie than DiMaggio."

"I used simple lighting to capture the essence of my subject. I believe it to be direct – where *less is more*. My choice of lighting was the Dynalite M1000Wi power pack and two 2040 flash heads with honey comb grids. What I love about Dynalite is that it's easy to use, reliable, durable, with the quality of light I'm looking for. You can mold it into a sharp crisp edge or you can diffuse it to a soft feathery look. Dynalite offers all of this, in an extremely affordable package."

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# [PORTFOLIO] ASMPSTUDENT



© Frank Logiudice



© Oleg Ogurtsov

Top left: Frank Logiudice – Middletown, CT  
Senior at Paier College of Art

Above: Oleg Ogurtsov – Barcelona, Spain  
Specialized coursework at the New School, New York  
Graduate of the Institut d'Estudis Fotogràfics de Catalunya, Spain

Lower left: Deborah Blodgett - Vancouver, WA  
Sophomore at Mt. Hood Community College

Right: Sarah Amato – Farmington, CT  
Sophomore at Ohio University



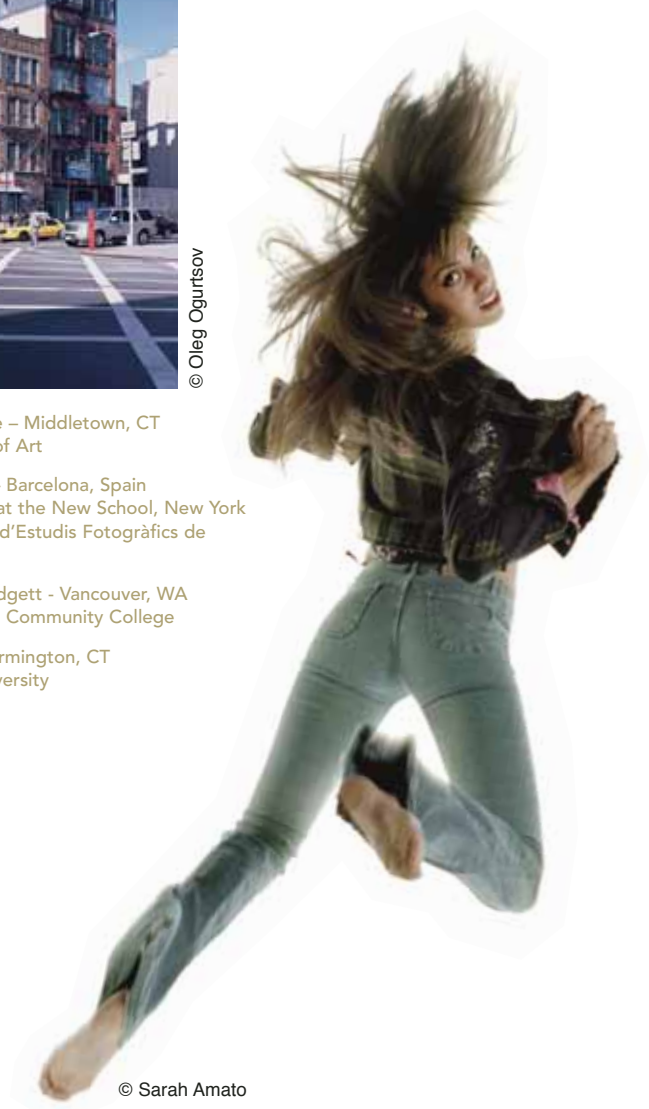
© Deborah Blodgett

Savvy educators and motivated students know that professional contacts are a huge asset in the transition from lesson plans to commercial assignments, and the ASMP has a student affiliate membership to help. The recent affiliates featured here all found reasons to join. What's stopping you?

Kristine Beckers, a student at Mercer County Community College, joined the ASMP in October 2005 at the PhotoPlus Expo in New York. "I learned about ASMP while attending PhotoPlus in 2004," she explains. "It

took me a year to review the literature and get serious about my work. I started taking photography courses as a hobby, but now I'm doing everything I can to learn more, from looking at museum exhibits and photographers' Web sites to taking advantage of the many resources ASMP has to offer."

To join the ASMP today go to: <[www.asmp.org/join/index.php](http://www.asmp.org/join/index.php)>, download an application form, read the membership brochure and get more details on the categories and benefits to membership. — Jill Waterman



© Sarah Amato

# AFFILIATES

A SMART WAY TO GET SERIOUS ABOUT YOUR WORK



© Jarrod McCabe



© Josh Booth



© Kristine Beckers

Top: Jarrod McCabe – Hudson, MA  
Junior at Brooks Institute of Photography

Above: Kristine Beckers – Princeton Junction, NJ  
Student at Mercer County Community College

Left: Josh Booth - Lexington, KY  
Senior at Savannah College of Art & Design

# BEHIND THE MUSIC

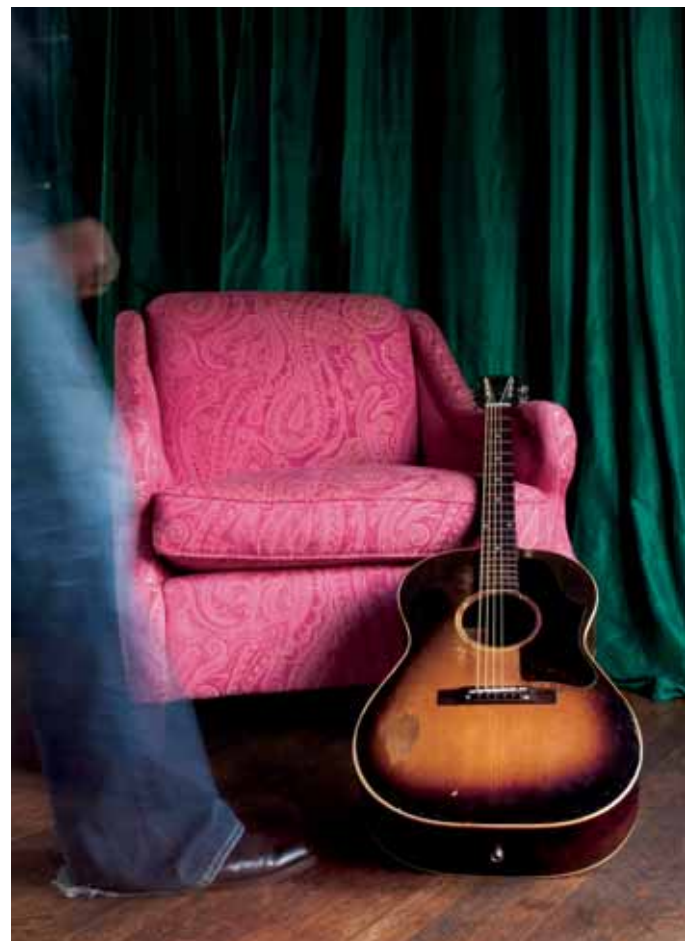
If you're a photographer with an intense interest in contemporary music, perhaps you've toyed with the idea of making a living shooting the music scene. But it takes more than enthusiasm and photography chops to break into and make a living in this highly competitive niche. Both are important, but a keen business acumen and an ability to differentiate yourself from others aspiring to shoot from the footlights are vital to getting—and staying—in the game.

## Breaking In

Erika Goldring's first published image—shot on spec—came out in *Relix*, a national music publication, in the fall of 2001. The New Orleans-based ASMP student affiliate—whose shot of R.E.M. front man Michael Stipe graced the cover of the ASMP Bulletin's Winter 2005 issue—has been pitching stories ever since and now gets regular assignments from *Relix* to cover the NoLa music scene, as well as music festivals such as Austin City Limits and Farm Aid Chicago. Goldring, a former marketing professional, decided soon after her first several photography classes at the New Orleans Academy of Arts that she wanted to focus on music. Her path was similar to many photographers drawn to the field—they were either immersed in their local music scene, were musicians themselves, knew musicians, or they worked in the music industry.

C. Taylor Crothers credits the demand for his skills as a music shooter to good timing. In the early Nineties, he was based in Virginia, shooting unknown but regionally popular bands, including the Dave Matthews Band and Phish, both of which grew to become major rock acts. A portfolio filled with live shots of these bands gave Crothers an edge with magazine and record company art directors when he moved to New York City in the mid-Nineties. Crothers still does projects for the Dave Matthews Band, and he worked with Phish until they disbanded in 2004.

“That type of a relationship was the exception rather than the rule,” says Crothers. “I was bad at getting editorial work, but great at developing a relationship with bands.”



© Erika Goldring

A conceptual shot by Erika Goldring graces the cover of Doug Pettibone's solo debut CD.

Developing such long-lasting photographer-musician relationships is indeed a rarity in the music business. If the musician's label is footing the marketing bill, the label's art director usually makes the final call. Austin, Texas-based editorial and advertising photographer Michael O'Brien began shooting musicians in his hometown of Memphis,

© Bootsly Holler



One way to do so is by anticipating your clients' future needs. "I shoot pictures [my subjects] don't ask me to do, but may need in the future," he says. "A band always needs pictures of the crowd going crazy, so you know if you have that shot, [they'll] use it."

Bootsly Holler started covering the Seattle music scene in the late Nineties. Clients come to this former film production stylist when they're looking for more than just a photo. "They come to me because they don't have a look or style. I try to help build a look out of an identity. I'm pre-coaching bands to get them to start thinking about what they're putting out there: their clothes, their look as a group."

Above: Bootsly Holler used a Nikon D70 with a 16mm f2.8 D AF fisheye to shoot Pearl Jam in a cramped Seattle music store, using only ambient light.

Even if a band barely has a budget, Holler makes it a point to go the extra mile. "I never do a job half-ass, even if I'm not being paid well," says Holler. "You never know what can happen, if people like you and the work is good, your name gets around. I get jobs and people have never seen my book."

### REMEMBER YOU'RE A PRO

Perhaps it was the fact that Canadian-born, New York-based shooter Patrick Harbron was a seasoned music journalist before he made the move to photography, but from his first assignment in the late Seventies on, he treated his work with musicians as a business—a rarity at that time. He recalls photographers working for free or handing over copyrights for the opportunity to attend a show, or, in the case of one competitor who landed a shoot with David Bowie, for free albums. "That was that business [back then]. People would [shoot] for nothing," says Harbron. "No one would go to Merrill Lynch and offer to do work for free."

Before he accepted jobs—whether they were editorial, from the label, at live shows or in a studio—he would insist on keeping his copyright. He would also create a budget, narrowly define the usage rights and ultimately send a detailed invoice. "Photographers are business people, but they don't know it," says Harbron. "They think, 'I got a job, wow I'm lucky.' It's not luck."

"They're using you because you did the right thing, marketed yourself, got yourself there," adds Harbron. "They're not doing you a favor. Just because you enjoy what you're doing, it doesn't mean it's not business. They called because they want you—if [your work is] good enough to use, then it's good enough to pay for." Then living and working in Canada, Harbron was shooting the likes of Grace Jones, Julian Lennon and Chick Corea—all international stars at the time. Although Harbron admits his firm stance turned some people off, "It put me in good stead for the future."

© Michael O'Brien



ZZ Top shows Michael O'Brien their biggest talent—beard trimming—in an editorial shoot for Texas Monthly.

Tennessee, in the late Sixties, but the majority of his assignments have not come from the musicians themselves. O'Brien says musicians don't often stick with one photographer for creative reasons. "They wouldn't use the same producer on every album—musicians are always trying to do something different."

### MAKE YOUR MARK

As you would with any type of client, find ways to make yourself indispensable. "Make [your subjects] wonder what they did before you came along" says Crothers, who's logged more than 10 years working in this niche. "I try to establish a relationship, give them something they need, and hopefully impress on them that it's important to keep the relationship going."



© C. Taylor Crothers

Taylor Crothers kept shooting while My Morning Jacket played through a storm at the 2004 Bonnaroo Music Festival in Manchester, Tennessee.

Retaining your copyright is important, but it's also vital to carefully define usage rights. There is an aftermarket for your images. Media evolves—think about how many CDs you've purchased to replace your favorite records; many groups are releasing DVDs of live shows. Record companies re-release music, including remastered classics or box sets. These all require packaging, and it's a good bet that images will be reused. As new technologies are created—Web sites, cell phones, pod casts, you name it—there are more opportunities to license your work.

Getting an appropriate fee and negotiating copyright and usage is never easy, and each circumstance is different. Musicians who are just starting out rarely have enough of a budget to even cover your services. And an established artist's representatives will try to push for as much control over your images as possible. If you're faced with the choice of ceding too much control or losing the opportunity to shoot their client, it's a tough decision, especially for photographers who are still working to establish their name and develop relationships in the business.

Ask yourself what you're getting in return. If you do a shoot for little or nothing, will it afford an opportunity to explore a new creative avenue, give your portfolio a boost or enable you to work with an influential art director? If you're handing over too many usage rights or accepting a work-for-hire contract, have you just given away a lucrative future?

## NEGOTIATING RIGHTS

It takes skill to maintain important relationships and negotiate fair terms. Even bands that “knew you when” will ask you to rubber stamp a contract. “If the band is worth their salt and has decent management, you'll see it: work-for-hire, merchandising rights, exclusivity,” says Crothers.

“Content is in the forefront of record companies' interests,” agrees

## WHERE TO START?

**Want an editorial assignment?** Do research at a chain bookstore or newsstand. Check out the music magazines and identify the ones that best match either your musical interests or shooting style. While you're at it, flip through the music coverage in general interest magazines, local newspapers and alternative weeklies as well.

Once you've identified the publications you want to target, send your promo materials to the art director, but don't forget to also contact editors, photo researchers or even the research assistants—they're easier to get to and they're likely to be making recommendations to their bosses. Be strategic, but also be realistic about the people you contact—if photographs in a magazine are shot by the writer or editor, this probably means there is little opportunity for freelance work.

**Looking to land an album cover?** While knowing a musician or manager doesn't hurt, if you're interested in shooting album covers or advertising materials, your best bet is to get your portfolio in front of the record company art director.

**Know your market.** If your portfolio is full of punk bands, it's less likely a country music magazine will tap you for an assignment. People in the music industry will pigeonhole you, so if you become known for your live shots, but also want to do portrait work, you'll have to work extra hard to promote those skills. Above all, getting a gig is about what they need, not what you want.

**Follow up.** Don't assume an art director or editor will have time to get back to you about your promo card. You have to follow up to make it happen. Be persistent—but don't become a nuisance.

Scott Mc Kiernan, veteran photojournalist and founder of Zuma Press photo agency and wire service. “They want to control it.”

The key to getting through each contract negotiation with industry relationships intact is to remember this is just business. The job of a musician's management team is to make deals that are the most advantageous for their client. “[Music industry people] are not educated on rights,” adds Mc Kiernan, “so you have to educate them. Understand what they want and figure out how it can work for you and them.”

If they won't budge on owning all rights to an image, don't get angry. If you agree to a work-for-hire, make sure your fee is commensurate. And if you can't come to a consensus, you can always walk away.

Perhaps best known for her legendary work as a rock and celebrity portrait photographer, Lynn Goldsmith has proven her expertise in a variety of roles, as a director, band manager and even as a musician. In 1976, she founded the LGI Photo Agency, prompted by her experience of trying to recover original images from a client, as well as the desire to refer other talented photographers. The agency grew to include 10 agents representing more than 200 photographers.

Goldsmith says that she has limited time—and patience—for negotiating with clients over terms. Her advice? If you can't negotiate for yourself, then get someone else—if not a rep, then a relative or colleague you trust—to do it for you.

Covering the music industry is a challenging and competitive job. In order to sustain success, you need to understand your bottom line, your worth as a photographer and your rights. Once you've got those basics down, you need to prepare to make your clients understand these things as well—and have both the patience and the stamina to stay the course.

For more information on contracts and copyright, go to <[www.asmp.org/commerce/legal/copyright/](http://www.asmp.org/commerce/legal/copyright/)>.

# MAKING THE MOST OF LIMITED RESOURCES

## THE ASMP IN THREE FEDERAL COURT APPEALS

**D**espite the limited resources of the ASMP's Legal Action Fund, the Society participated in amicus curiae (friend of the court) briefs in three major federal appellate court cases this fall: *Faulkner et al. v. National Geographic Society et al.*, *Dallal v. NY Times*, and *Jarvis v. K2*. These cases all deal with issues left unresolved by the U.S. Supreme Court decision in *Tasini v. NY Times*.

### JARVIS V. K2

ASMP member Chase Jarvis sued his former client K2 Corporation (maker of skis, bicycles and other sports-related gear) over numerous lost images and multiple uses of his photographs outside the scope of their licenses. The U.S. District Court judge ruled in Jarvis's favor on most of the claims. However, the judge made a number of apparent errors and awarded damages based on incorrect standards, resulting in an inappropriately low recovery. Two rulings in this case caused the ASMP the greatest concern. The first stated that a collage that used copyrighted photographs could be considered a "collective work." In the second, the judge applied the rulings in the *Tasini* and *Faulkner* cases to hold that no permission or additional compensation was needed

for electronic and other uses under §201(c) of the Copyright Act. This was in spite of specific time limitations for usage imposed under Jarvis' licensing terms. The ASMP felt that if this trial decision were left standing, a client could claim that a license for print advertising could be extended to include Web site advertising with no additional fee.

Jarvis appealed to the Ninth Circuit, and the ASMP provided funding assistance for the costs of the case as well as an amicus curiae brief in support of Jarvis's appeal. At the time of this writing, the appeal is still pending.

### DALLAL V. NY TIMES

This is another case dealing with questions left unanswered by the U.S. Supreme Court's decision in *Tasini*. ASMP member Thomas Dallal worked as a freelance photographer for the *New York Times* from 1994 to 2002. During that time, he submitted an estimated

Thomas Dallal's images, like this aerial view of Manhattan's Silicon Alley, were shot for the *New York Times* and used by the paper beyond the scope of the photographer's license agreement.



© Thomas Dallal

## [ LEGAL REVIEW ]

1,400 assignments, all under the long-standing customary terms of first-time, one-time-only print use. In addition, each time Dallal submitted photos to the *Times*, he sent paperwork limiting the license to print usage.

Starting in 1996, the *Times* began to use his pictures beyond the scope of Dallal's licenses by publishing them in its online edition, for which he was not paid. When Dallal became aware of these unauthorized uses in 1997, he began to object. Eventually, the *Times* apologized and removed some of Dallal's images from its Web sites—and stopped giving him assignments. Many of Dallal's images were not removed, however, until many months later. After many futile attempts to convince the *Times* to account and pay for its unauthorized uses, Dallal filed suit for copyright infringement in the U.S. District Court in New York City in December 2003.

In May 2005, the judge dismissed the lawsuit on a theory known as equitable estoppel. The underlying theories were that (a) the judge rejected the concept that Dallal had consistently and adequately objected to the digital use of his images and (b) that since he continued to accept assignments from the *Times* while they were making digital uses of his photos without his specific permission, he was in fact agreeing to this digital use. Dallal appealed to the U.S. Court of Appeals for the Second Circuit.

The Graphic Artists Guild (GAG) and the ASMP collaborated in writing and filing an amicus curiae brief in support of Dallal's appeal. The appeal is still pending, with oral arguments scheduled for late January 2006.

### FAULKNER ET AL. V. NATIONAL GEOGRAPHIC SOCIETY ET AL.

A number of photographers, including current and past ASMP members Fred Ward, Louis Psihoyos and Douglas Faulkner, sued National Geographic and some other entities in the U.S. District Court in New York City. The suit was in connection with National Geographic's production and sale of a number of CD-ROM products containing compilations of more than 100 years' worth of magazine issues—all without permission from the photographers. ASMP member Jerry Greenberg had won a similar lawsuit in the U.S. District and Circuit Courts in Florida. Despite that, both of the New York Courts ruled in favor of National Geographic. The photographers filed a petition to ask the U.S. Supreme Court to hear their appeal. The ASMP published a white paper in support of the request to the Supreme Court that the lawyers for the photographers could reference in their briefs. Unfortunately, the Supreme Court recently declined to hear the appeal, leaving a split between the Second (NY) and the Eleventh (FL) Circuits.

The logo for ASMP PROSURANCE is enclosed in a black rectangular border. At the top left, the letters "ASMP" are written in a large, bold, serif font. Below this, the word "PROSURANCE" is written in a very large, bold, serif font, with a silhouette of a person holding a camera integrated into the letter "O". Underneath "PROSURANCE", the words "FOR THE" and "PROFESSIONAL PHOTOGRAPHER" are written in a smaller, bold, serif font, separated by the camera silhouette.

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# PARTING SHOT

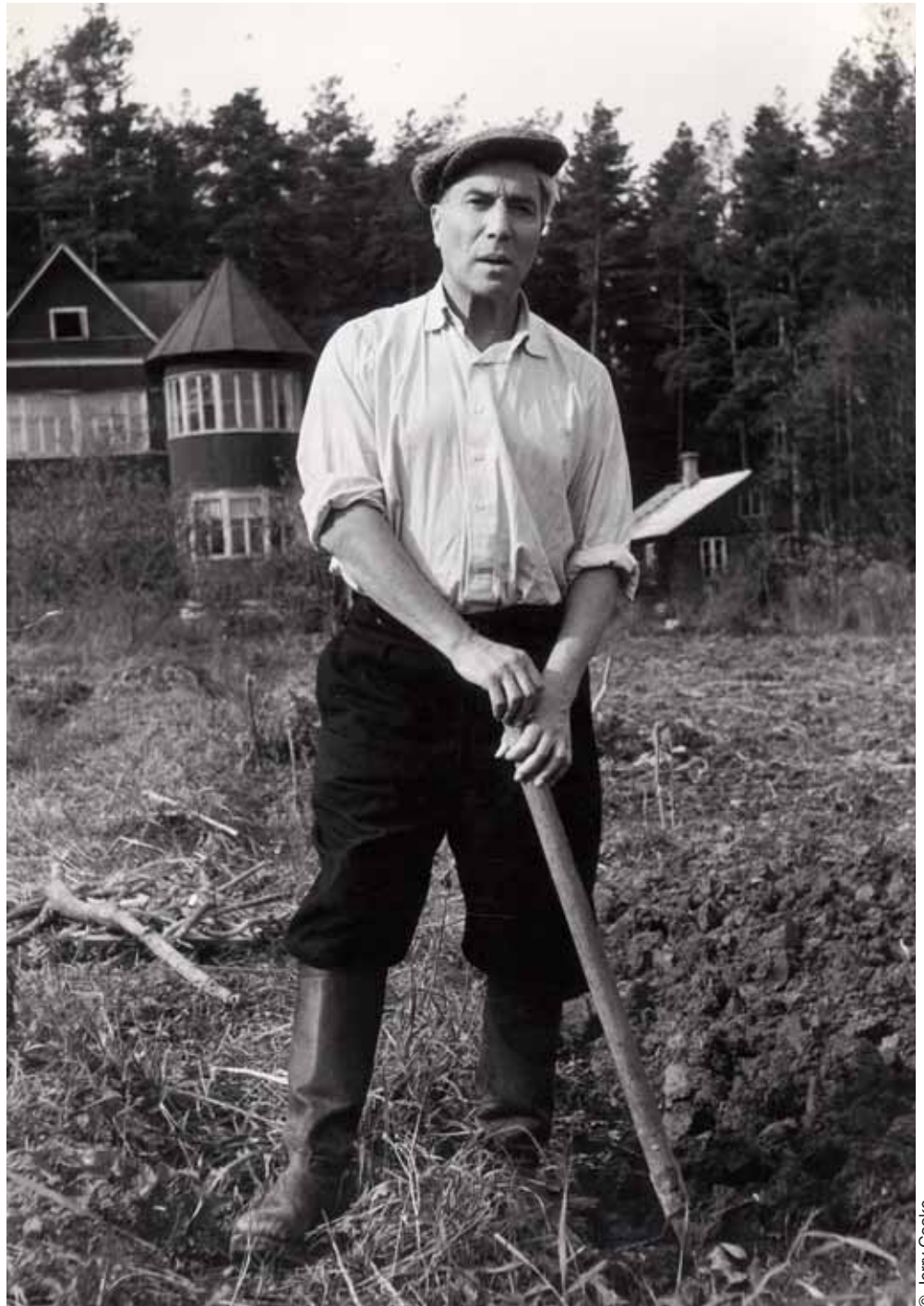
## AT THE FINISH LINE OR UNDERCOVER, JERRY COOKE GOT THE WINNING SHOT

**A** SMP founding member Jerry Cooke's name became synonymous with sports photography through his coverage of major events for *Sports Illustrated* for more than 50 years. His body of work, however, encompassed much more than that—from photojournalistic exposés to portraiture to stock photography, which graced the pages of most major magazines.

In 1956, Cooke—whose family fled Odessa, Russia, in the early 1920s—became one of the first photographers allowed to cover the post-Stalinist Soviet Union. Enroute to a return trip in 1958, Cooke brought along the novel *Doctor Zhivago*. Despite restrictions on foreigners' travel outside approved areas, Cooke made a clandestine trip to visit its author, Boris Pasternak, at a writer's colony 30 miles from Moscow. After giving Pasternak his copy of the book, Cooke spent the day photographing the writer. Soon after, those images were much in demand with the announcement that Pasternak would receive a Nobel Prize.

As savvy in business as he was a master of his craft, Cooke was a key participant in early efforts by the ASMP to convince publications to adhere to minimum day rates and fair usage terms. Cooke passed away on October 27, 2005, but his efforts and his influence will long be remembered.

—AB



© Jerry Cooke

# GET NOTICED

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**FindaPhotographer.org** –

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**ASMPproAdvice** – A free listserv for student and emerging photographers at [www.asmp.org/proadvice](http://www.asmp.org/proadvice).

**Best Practices for Digital Imaging** at [www.asmp.org/updig](http://www.asmp.org/updig).

**Copyright Tutorial** at [www.asmp.org/copyright](http://www.asmp.org/copyright).



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