

1 KEVIN S. LACEY, State Bar #140918  
2 CATHERINE L. SEKELY, State Bar #229095  
3 LACEY, DUNN & DO  
4 A Professional Corporation  
5 315 W. Arden Avenue, Suite 11  
6 Glendale, California 91203  
7 (818) 291-9858

8 Attorney for Defendant and Cross-Complainant  
9 Charles W. Hayes

**FILED**  
LOS ANGELES SUPERIOR COURT

MAY 02 2007

JOHN A. CLARKE, CLERK  
*[Signature]*  
BY VICTOR E. SINO-CRUZ, DEPUTY

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF LOS ANGELES  
12 CENTRAL DISTRICT

13 FREDERIC G. MARKS, JOSEPH HENTZ, )  
14 STUART SMITH, JEAN MOLLENHAUER, )  
15 ROGAN COOMBS, JOSEPH DROLL, )  
16 GREGG ROOTEN, THOMAS R. WOOD, )  
17 MARILYN WOOD, GREG STAININGER, )  
18 and JOHN FOUNTAIN, )

19 Plaintiffs,

20 vs.

21 WAYNE JOYNER and THE UNIVERSAL )  
22 SCIENTIFIC PUBLICATIONS COMPANY )  
23 TRUST, THE UNIVERSAL SCIENTIFIC )  
24 PUBLICATIONS COMPANY, INC., THE )  
25 NATURAL ESTATE TRUST, and DOES 1 )  
26 through 50, Inclusive, )

27 Defendants.

28 CHARLES W. HAYES as Trustees of the )  
Natural Estate Trust under the Declaration of )  
Trust dated April 16, 1992 where Andrew )  
Galambos and Suzanne J. Galambos are )  
Trustors,

Cross-Complainant,

vs.

FREDERIC G. MARKS, and ROES 1-50 )  
inclusive, )

Cross-Defendants.

CASE NO. BC352639  
[Hon. Kenneth R. Freeman, Dept. 64]

**DEFENDANT HAYES' REPLY TO  
PLAINTIFFS' OPPOSITION TO  
MOTION FOR SUMMARY  
JUDGMENT OR, IN THE  
ALTERNATIVE, SUMMARY  
ADJUDICATION OF ISSUES**

*[Filed concurrently with Defendant  
Hayes' Objections to Plaintiffs' Evidence  
& Reply Separate Statement and Reply to  
Plaintiffs' Separate Statement.]*

Hearing Date: May 7, 2007  
Hearing Time: 8:30 a.m.  
Dept.: 64

Motion Cut-Off: Per Code  
Discovery Cut-Off: Per Code  
Trial Date: June 6, 2007

1 TO ALL PARTIES AND TO THEIR RESPECTIVE ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT defendant Charles W. Hayes hereby submits the  
3 following reply to plaintiffs' opposition to Mr. Hayes' Motion for Summary Judgment or,  
4 in the alternative, Summary Adjudication.

5

6 DATED: May 2, 2007

LACEY, DUNN & DO  
A Professional Corporation

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By: 

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KEVIN S. LACEY  
CATHERINE L. SEKELY  
Attorneys for Defendant and  
Cross-Complainant Charles W. Hayes

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 1. **INTRODUCTION.**

3 Plaintiffs' opposition fails to raise any triable issues of fact.

4 Plaintiffs' arguments relating to the statute of limitations is specious. The  
5 undisputed evidence establishes that the statute commenced, if at all, in 1987. Plaintiffs  
6 have misstated the law concerning equitable estoppel and have failed to state sufficient  
7 facts to assert it.

8 Plaintiffs are not entitled to specific performance. They may have been entitled to a  
9 refund had they filed the complaint in a timely manner, but not 19 years later.

10 Further, Mr. Hayes shifted the burden of proof as to plaintiffs frivolous breach of  
11 fiduciary duty claim and plaintiffs have offered no evidence whatsoever to create any  
12 triable issues of material fact as to either the element of causation or breach. Plaintiffs'  
13 only "evidence" is plaintiff Marks's baseless speculative opinion that Mr. Hayes has  
14 "wasted" the assets of the Natural Estate Trust. This is simply insufficient.

15 Finally, plaintiffs concede that they intend to "publish and distribute" Professor  
16 Andrew J. Galambos's transcripts as an *alternative* to defendants' publication. That  
17 rationale is insufficient to overcome preemption. Plaintiffs concede that the contract does  
18 not allow for transfer of copyright rights. Consequently, the alleged "alternative" relief  
19 that plaintiffs seek is unavailable in this Court.

20 2. **THE STATUTE OF LIMITATIONS EXPIRED 14 YEARS AGO.**

21 There is no dispute that the contract at issue provided that Professor Galambos'  
22 unwritten book would be published and delivered to plaintiffs in 1987. (Undisputed  
23 Material Fact No. 4.) Further, plaintiffs then realized that the defendants had not complied  
24 with the terms of the contract because none of them received a book or a refund in 1987.  
25 Moreover, in March of 1988, the plaintiffs received a letter from Mrs. Galambos stating  
26 that there would be no refunds and that Professor Galambos would, based on some self-  
27 imposed "moral" obligation, write his book. Likewise, plaintiffs cannot contest that they

1 did not file this action for breach of that contract until 2006 - 19 years after the promised  
2 book was due. (Undisputed Material Fact No. 11.) On its face, plaintiffs' complaint was  
3 filed some 14 years too late. Nevertheless, to oppose Mr. Hayes' summary judgment, the  
4 plaintiffs have offered three equally specious theories why the statute of limitations did not  
5 expire in 1991.

6       **A.     There was never any agreement by the parties to extend the time to**  
7               **publish the book.**

8               Plaintiffs first hang their collective hats on the contractual provision that states that  
9 "publication ... could be extended by agreement ... to any date TUSCPO might propose."  
10 (Opposition, p.7:2-3.) Plaintiffs then leap on this language and argue that the plaintiffs  
11 awaited publication of the book at some later date based on the defendants' alleged  
12 representations that they would - at some undesignated point in the future - publish it.  
13 (Opposition, p.7:3-10.)

14               Plaintiffs' reliance on the language of the contract is misplaced. Conveniently  
15 absent from plaintiff's brief or supporting evidence is the fact that the parties never  
16 "agreed" on extending anything. Nowhere have plaintiffs alleged or maintained that the  
17 parties agreed to extend the time to publish the book to a certain date. Indeed, even if they  
18 did, such an agreement would contradict both the PPSA drafted by plaintiff Marks that  
19 specifically requires that an amendment be in writing, as well as by applicable contract law.  
20 (Exhibit "A" PPSA §7.9; Civil Code sec. 1698.) Plaintiffs argue only that they relied on  
21 the defendants' alleged representations of publication in the future. That is patently  
22 insufficient to extend the terms of the contract.<sup>1</sup> Since the contract was never executed by  
23 the parties on any "agreed" date, plaintiffs' reliance on subdivision (b) is completely  
24 misplaced. (Opposition, p. 8:12-17.)  
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26               <sup>1</sup> Plaintiffs' alleged "reliance" is irrelevant to this issue. If anything, this alleged  
27 "reliance" by the plaintiffs would be relevant only to the issue of estoppel, that, for reasons  
28 set forth below, is also inapplicable.



1 For plaintiffs to assert equitable estoppel to defeat the statute of limitations,  
2 plaintiffs were required to plead and prove the elements of equitable estoppel in their  
3 complaint. *Lantzy v. Centex Homes, supra*, 31 Cal.4th at 385. For equitable estoppel to  
4 apply, the complaint must:

5 (1) Contain a statement of facts, not conclusions, constituting the grounds for  
6 estoppel; see *Negaard v. Dept. of Aeronautics* (1973) 32 Cal.App.3d 92, 107;

7 (2) Contain a statement of facts, not conclusions, that defendant knew of the statute  
8 of limitations, *Kleinecke v. Montecito Water Dist.* (1983) 147 Cal.App.3d 240, 245-247;

9 (3) Contain a statement of facts, not conclusions, that defendant intentionally acted  
10 or made statements in order to induce plaintiff to rely on such conduct or statements (*Id.*);

11 (4) Contain facts to establish that plaintiffs were genuinely ignorant of the true state  
12 of facts (*Id.*);

13 (5) Contain a statement of facts, not conclusions, reflecting that plaintiffs in fact  
14 reasonably relied on defendant's conduct or statements to his or her detriment, *Ibid*; *Lantzy*  
15 *v. Centex Homes, supra*, 31 Cal.4th at 383-385. In the context of the statute of limitations,  
16 the defendants' conduct must have "induced plaintiffs to refrain from filing a lawsuit".  
17 *Id.*, at 659.

18 Although plaintiffs claim in paragraph 19 of the Complaint that "after December 31,  
19 1987, Defendant's Joyner and Hayes represented orally and in writing that they were  
20 working on publication," there are no other allegations in the Complaint that support the  
21 theory of equitable estoppel. Plaintiffs failed to plead and prove any of the other necessary  
22 elements. *Negaard v. Dept. of Aeronautics, supra*, 32 Cal.App.3d at 107; *Kleinecke v.*  
23 *Montecito Water Dist., supra*, 147 Cal.App.3d at 245-247; *Lantzy, supra*, 31 Cal.4th at  
24 384. More importantly, plaintiffs have also failed to address the elements of estoppel in  
25 their opposition.

26 There is no evidence to support plaintiffs' argument that any of the defendants made  
27 statements that they would *comply with the contract* or that would induce the plaintiffs not

1 to file suit. In fact, all the statements and evidence cited by the plaintiffs establish  
2 precisely that they would not. Plaintiffs allege "reliance" on Mrs. Galambos' letters, but in  
3 so doing, plaintiffs conveniently ignore the content of those letters, which clearly stated  
4 there would be *no refunds* and that Professor Galambos would provide a Book based on a  
5 "*moral*" decision. (Plt's Exs. 1; Def's Ex. "R", "T", and "V"; Opposition, pp. 6-7.) In her  
6 March 15, 1988 letter, Ms. Galambos wrote: "We also are funding the publication... This is  
7 a *moral decision* which Professor Galambos has made." (Reply Ex. "X" p. 2; see also Ex.  
8 "R" p. 2.) Clearly the Galambos did not consider himself contractually bound to do  
9 anything by the terms of the PPSA and made no statements that would induce plaintiffs not  
10 to sue.

11 Amazingly, however, plaintiffs argue that the same letters indicating that there  
12 would be no refunds and that Professor Galambos would, out of some personal moral  
13 obligation, produce the book, constitute a "reasonable reliance" to enforce the very contract  
14 whose terms the letters contradict. In other words, no actions by any of the defendants  
15 "induced" plaintiffs to refrain from filing suit.

16 Further, plaintiffs were not "genuinely ignorant of the true facts". *Kleinecke v.*  
17 *Montecito Water Dist., supra*, 147 Cal.App.3d at 245-247. In fact, they were well aware  
18 of the facts that (a) the book was due in 1987; (2) they didn't get the book; and (3) that the  
19 Galamboses were not going to issue any refunds and that any book would be published, not  
20 based on the contract, but on "moral" obligations.<sup>2</sup>

21 Moreover, even assuming that somehow plaintiffs were particularly obtuse (which  
22 would render them unreasonable), subsequent events clearly establish their complete lack  
23 of diligence. Assuming, *ad arguendo*, that Ms. Galambos' March 1988 letter led plaintiffs  
24 to "rely" on a later publication - which it did not - after three years no book had been  
25 published. In the last letter written by Suzanne Galambos regarding publication in June of

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<sup>2</sup> Plaintiffs' awareness of these facts is demonstrated by the threat of litigation brought by plaintiffs Mollenhauer and Rooten.

1 1992, she indicated that the “I expect to bring out the first volume of this multi-volume  
2 opus either by the end of 1993 or early in 1994.” (Plt’s Ex. 3) No book was published in  
3 1993 or 1994. Plaintiffs simply did nothing to protect their interests in a timely manner,  
4 and cannot circumvent the statute of limitations by arguing “equitable” estoppel.

5 In addition, after discovering the “true facts”, the plaintiffs are required to proceed  
6 diligently. *Lantzy v. Centex Homes, supra*, 31 Cal.4th at 384. Given the facts that were at  
7 all relevant time known to plaintiffs, they did not act diligently to protect their interests.  
8 Here, plaintiffs were on notice of the alleged material breach because none received the  
9 Book or a refund and none of the artificial deadlines later indicated by Mrs. Galambos  
10 were not met. Nevertheless, plaintiffs failed to proceed diligently, and clearly could not  
11 have “relied” on representations of alleged completion that were never met. *Negaard v.*  
12 *Dept. of Aeronautics, supra*, 32 Cal.App.3d at 107; *Kleinecke v. Montecito Water Dist.,*  
13 *supra*, 147 Cal.App.3d at 245-247.

14 In sum, equitable estoppel does not apply because: (1) plaintiffs never properly  
15 plead it and cannot now rely upon it; (2) plaintiffs have not satisfied the elements of  
16 equitable estoppel; (3) plaintiffs have failed to assert facts to support it; (4) plaintiffs failed  
17 to act diligently when, as early as December of 1987, they knew the promised book would  
18 not be published; and (5) none of the evidence allegedly relied upon by plaintiffs was  
19 sufficient to give rise to an argument of estoppel.

20 **C. This case accrued, if at all, in 1987.**

21 Plaintiffs claim that the statute did not accrue until 2005 when Mr. Hayes allegedly  
22 “repudiated” his obligation to publish the book. Obviously, since plaintiffs are asserting  
23 the application of equitable estoppel thus conceding that the statute of limitations had  
24 already commenced, this argument borders on specious.

25 The gist of this argument is that the plaintiffs were blissfully unaware of any  
26 problems and were patiently waiting for the defendants to publish until, in 2005, Mr. Hayes  
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1 allegedly stated they would not do so thus creating an “anticipatory” breach.<sup>3</sup> The  
2 problems with this argument are legion, but the two most obvious will suffice.

3 First, plaintiffs’ argument ignores the previous 19 years where all plaintiffs - and  
4 especially Mr. Marks - were well aware that the contract had been breached, if at all in  
5 1987 when the book had not been published.

6 Second, it ignores the many letters from Professor Galambos, Mrs. Galambos and  
7 others, which plaintiffs gleefully cite elsewhere, that clearly and unequivocally indicate  
8 that there would be no refunds and any publication would be as a result of Professor  
9 Galambos’ self-imposed “moral” obligation.

10 In order to even consider plaintiffs’ specious argument, one simply has to ignore  
11 everything that occurred for almost 20 years.

12 **3. SPECIFIC PERFORMANCE IS UNAVAILABLE.**

13 Plaintiffs’ assertion that they are entitled to specific performance (*i.e.* to obtain  
14 lecture transcripts) is baseless. (Opposition, p. 13:8-24.) As a preliminary matter, specific  
15 performance requires that plaintiffs first establish that there is no adequate remedy at law.  
16 *Henderson v. Fisher* (1965) 236 Cal.App.2d 468, 472-474. In this case, the PPSA provides  
17 such a legal remedy in the form of a refund. (Exhibit “A” PPSA §6.4) Specific  
18 performance is also inappropriate and does not apply to the “rendition of a performance  
19 that is of a distinctly personal and non-delegable character ...Included within this category  
20 are the contracts of actors and artists [and innovators such as AJG].” *Woolley v. Embassy*  
21 *Suites, Inc.* (1991) 227 Cal.App. 3d 1520, 1534. Indeed, the rule is statutory. (Civ. Code  
22 section 3390). The intellectual property of Professor Galambos is, likewise, highly  
23 personal and non-delegable in character. That explains the provision in the PPSA requiring

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<sup>3</sup> This is the zenith of chutzpah: The contract called for publication in 1987 and some 19 years later the plaintiffs allege “anticipatory” breach. Further, plaintiffs’ “evidence” for this alleged repudiation is Mr. Marks declaration, ¶¶ 32-36. Nowhere in that declaration, however, is there any statement allegedly made by Mr. Hayes or anyone else, that they did not intend to publish anything or that they were repudiating the contract.

1 the lectures to be “edited to the best of the ability of the authorized representative(s) of FEI  
2 and the proprietary heir(s) of AJG [defendants] who would be performing such editing.”  
3 (Exhibit “A” PPSA §1.3.)

4 Despite plaintiffs’ cheap characterization, this is not a simple contract for the sale of  
5 goods. It is an agreement to buy an unwritten book that would include the theories and  
6 innovations of AJG set for in his lectures V-50 and V-201. It is a contract for personal  
7 services – writing services. Indeed, if Andrew J. or Suzanne J. Galambos had intended to  
8 simply publish the transcribed lectures - as plaintiff Marks assures us was, in fact, the case  
9 - they could have done that at any time. (Marks Decl., ¶49.) They did not do so because  
10 that is not what they intended. Defendants, the carefully selected trustees of Galambos’  
11 Natural Estate Trust, were to produce Book 1 edited to the best of their ability. Plaintiffs  
12 have no basis legally or otherwise to determine the form of publication.

13 **4. PLAINTIFFS FAILED TO PRESENT ANY EVIDENCE TO SUPPORT**  
14 **THEIR CLAIM FOR BREACH OF FIDUCIARY DUTY.**

15 Plaintiffs’ claim that Mr. Hayes breached his fiduciary duty is without merit.  
16 Indeed, they have conceded as much in their undisputed facts. Moreover, they have  
17 offered no evidence sufficient to shift the burden of proof back upon the defendants.

18 First, plaintiffs *admit* that Mr. Hayes did not cause them any damages and that  
19 Lange stole their money. (Undisputed Facts 12-20.)

20 Second, plaintiffs have no facts, documents or witnesses to support a claim for  
21 “breach” of fiduciary duty. (Undisputed Facts 21-32.<sup>4</sup>) In discovery, Mr. Hayes requested  
22 facts, documents and witnesses from plaintiffs in support of their allegations. Those  
23 responses were incomplete, evasive, non-responsive and did not include any facts at all -  
24 simply allegations based on “information and belief”. (Motion, pp. 13-16.) In the

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27 <sup>4</sup> Plaintiffs improperly attempt to characterize these facts as “disputed” because  
28 defendant Hayes did not quote the entirety of plaintiffs’ interrogatory responses or the  
entire paragraph of the Complaint.

1 opposition, plaintiffs continue to rely on “information and belief and have not cited to a  
2 single fact. (“The contention was made upon information and belief [rather than facts].”  
3 Alleged Disputed Facts 23, 25-27, 29-32.

4 Plaintiffs admit no they have no knowledge of any facts in support of their claim for  
5 breach of fiduciary duty and that (1) all plaintiffs other than Marks have no knowledge of  
6 any facts, witnesses or documents to support a cause of action for breach of fiduciary duty  
7 [Undisputed Fact No. 24]; and (2) Marks’ allegations set forth in the complaint, in  
8 response to discovery, and in his opposition declaration, are firmly rooted in complete  
9 speculation and unsupported by any admissible facts [Undisputed Facts 23, 24-32].  
10 Plaintiffs provided no evidence whatsoever in opposition to the Motion or in their futile  
11 attempt to manufacture triable issues of material fact.

12 Rather than abandon what is clearly a frivolous claim, plaintiffs have attempted to  
13 manufacture an issue through Mr. Marks’ improper declaration. (See objections to  
14 plaintiffs’ evidence filed concurrently herewith.) Were this case not so serious a matter,  
15 however, it would be difficult not to characterize Mr. Marks’ declaration as farcical.

16 First, as with their prior allegations and discovery responses, Mr. Marks’ declaration  
17 contains no facts at all. Rather, it contains his unsupported “opinion” that the defendants  
18 “wasted” unidentified assets.<sup>5</sup> (Plt’s Marks’s Dec. ¶44.) Mr. Marks also promises to  
19 parade (also unidentified) witnesses before this court at trial “who will establish that Joyner  
20 and Hayes have spent or have been spending... [funds on editors]” in violation of some  
21 fiduciary duty.<sup>6</sup> (Plt’s Marks’s Dec. ¶42.) Further, Mr. Marks alleges that the defendants  
22 sold a piece of property owned by the trust for *what is was worth without trying to get a*  
23 *price above market value!* (Plt’s Marks’s Dec. ¶44.) Finally, in probably the most bizarre

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<sup>5</sup> We are all left to speculate what assets he is referring to and how they were allegedly wasted.

27 <sup>6</sup> Again, how it is a breach of a fiduciary duty to engage editors for the purpose of  
28 publishing a book is left to the court’s imagination.

1 claim of breach of fiduciary duty ever asserted, Mr. Marks claims that the defendants are  
2 wasting assets by defending themselves *from this very lawsuit that he filed!* (Plt's Marks's  
3 Dec. ¶45.) At this point, plaintiffs' continued prosecution of a cause of action for which  
4 they have no facts or evidence can only be described as an unsupported and malicious  
5 vendetta.

6 **5. COPYRIGHT ACT PREEMPTS "ALTERNATIVE" RELIEF REQUEST**  
7 **FOR SPECIFIC PERFORMANCE.**

8 Plaintiffs do not rebut that the Copyright Act is implicated. They simply claim that  
9 because their publication and distribution of Professor Galambos' lectures is an *alternative*  
10 form of relief, the Copyright Act should not preempt their claim. That said, they admit the  
11 PPSA does not contemplate a transfer of exclusive rights set forth in the Copyright Act.  
12 (Undisputed Facts 39-43.) Additionally, plaintiffs admit, the PPSA does not provide for  
13 any of these exclusive rights. Consequently, as a matter of law, the Court should dismiss  
14 plaintiffs' claim for specific performance (to publish and distribute the lectures).  
15 Alternatively, to the extent plaintiffs seek specific performance, their Complaint implicates  
16 the federal Copyright Act and this Court lacks jurisdiction.

17 **6. CONCLUSION.**

18 For all of these reasons, this Court should grant Mr. Hayes' Motion for Summary  
19 Judgment or, in the alternative, summary adjudication of issues.

20  
21 DATED: May 2, 2007

LACEY, DUNN & DO  
A Professional Corporation

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24 By: 

25 KEVIN S. LACEY  
26 CATHERINE L. SEKELY  
Attorneys for Defendant and  
Cross-Complainant Charles W. Hayes

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# THE UNIVERSAL SCIENTIFIC PUBLICATIONS COMPANY, INC.

Post Office Box 9709 / Anaheim, California 92802 / Phone: (213) 723-1776

Page 1 of 8

*Mr. and Mrs. Jerome J. Stumps*

*Dear Mr. and Mrs. Stumps:*

This letter is by way of bringing all of our book and course subscribers up to date. We realize that our trust subscribers are a diverse assortment of individuals. Some of you disappeared almost as soon as the ink was dry on your book and/or course contract(s), and we have not been able to contact you since then. Some of you have been in contact with us by letter or by telephone from time to time over the years. Some of you we continue to see fairly regularly in our classes, and, therefore, we have been able to keep you apprised.

So, for those of you who "already know all that", we hope you will bear with us while we reiterate to all of our trust subscribers as a whole what we have been informing most of you individually or in groups over the past few years.

In 1984, our long-time friend(?) and associate, Mitchell J. ("Matt") Lange pleaded guilty to having stolen 1.5+ million dollars from our various entities. He had been quietly but systematically stealing from every entity to which he had access. He embezzled the contents of both the course trust and the book trust in their entirety. (He was a trustee of both, as you will recall.) In a stroke of cruel "humor", Lange left Professor Galambos two cashier's checks, totaling just over \$800 -- the remains of the assets of both trusts after he had embezzled them.

Lange was sentenced to four years in prison (Chino). With time off for "good behavior", Lange was released from prison after serving two years of his sentence.

Because, under California law, there is no recourse available to a victim (the state's public relations campaign to the contrary notwithstanding), and no mechanism to recover stolen property other than a civil suit, we had no choice but to sue Lange to recover the stolen moneys. In 1984, October (even before Lange formally pleaded guilty to his crime), we filed suit against Lange to recover the trust moneys he stole, as well as all of the other moneys from the various other entities. (These are outlined later in this letter.) The case has not yet come to trial.

On 1984, July 9, Professor Galambos received a letter from M. J. Lange dated 1984, July 3, in which Lange confessed to having taken all of the assets of both the book and course trusts. Without our knowledge, he had liquidated the contents of the money-market funds, the stocks belonging to the trusts, and the commodity accounts, taking all of the proceeds for his private use.

In his letter of 1984, July 3, Lange claimed to have "borrowed" the assets of both trusts. In point of fact, he stole them. One cannot "borrow" when there is no lender. And there is no lender when the person(s) to whom the property belongs has/have no knowledge of the so-called "borrowing".

EX X ✓

Calling a thief a "borrower" does not make him a borrower. As Lincoln put it so well, "Calling a cow's tail a leg doesn't make it a leg."

The San Diego Police Department made some incredible discoveries of Lange's crimes and how he had committed them. Our accountant discovered that Lange also had taken substantial amounts of money from FEI/LIONSTech, from TUSPCO (the company as well as the trust), The Liberal Publishing Company, Inc., from the 20th Anniversary Alumni Meeting account, from the Joseph B. Galambos Centennial account, and from Galambos personally. (My Husband had personally advanced money to pay for the gold coin-medals we struck for the Joseph B. Galambos Centennial. Instead of repaying the loan to Galambos as the coin-medals were sold, Lange pocketed both the proceeds of the sale and the money which should have been repaid to Galambos to retire the company's debt to him.)

Perhaps Lange's most reprehensible act is that he stole even the assets from the royalty account of Joseph B. Galambos which held the cash proceeds from the coin-medals issued in commemoration of Joseph B. Galambos's centennial in 1982, a commemoration which many of you attended. Further Lange stole proceeds from the centennial commemoration itself.

Lange also stole a substantial amount of money from the 20th Anniversary Alumni Meeting account.

Lange's techniques for stealing included (but were not limited to) falsifying financial records so his thefts could remain undetected for a long period of time and juggling moneys from one account to another until they were ultimately siphoned into his own pocket.

Even as we write this, the amount of loss owing to Lange's crimes continues to mount. Since he liquidated all of the trust-owned stocks for his own use, we have lost all of the dividends, interest, and capital gains which would have accrued to the trusts over the years since he began selling off the trust stocks. Lange also sold all of the gold belonging to the trusts which had been purchased as a hedge against inflation. Lange pocketed that money as well. We not only lost the gold to his theft but the increase owing to the increase in gold prices since the gold was originally purchased.

Before Lange left San Diego for another city where he was taken into custody in 1984, August, he deposited whatever records he felt like leaving behind in whatever fashion he chose to leave them in a loft in San Diego. He subsequently sent Galambos a key to the loft.

We have been funding the presentation of trust courses out of our personal resources, those few remaining assets to which Lange had no access. We also are funding the publication of Galambos's books (and the other books on the book trust), out of our own pocket since Lange embezzled the trust funds.

This is a moral decision which Professor Galambos has made.

We remind you and, in particular, those of you who have been requesting refunds of book trust payments under Paragraph 6.4, Page 12, that this paragraph has been rendered null and void under Paragraph 6.5(5), Page 14. Lange's theft invokes the latter paragraph as stated in the contract.

Since we are continuing to deliver the products, none of our subscribers is being injured by Lange's theft. Up to this point, we, alone, have been Lange's victims.

Yet, in a larger sense, everyone, FEI graduate and flatlander alike, could well be a victim of Lange's insatiable greed. Anything that prevents or even delays getting volitional science and primary property theories into a more permanent form cannot help but have a damaging effect upon the future of the species -- not even speaking of the future of each of you.

Now, even more critical than the loss of the money is the loss of the remaining time of both of us as we attempt to make order out of the chaos Lange left in his wake. We have to determine from which entity he stole what amounts. We have spent the greater part of the past three years sifting through several thousand pages of raw data to put together a working set of records as carefully verified as is humanly possible. This has involved checking customers' enrollments or book orders and/or coin-medal orders against receipts against deposit records against contracts (if a contract was involved), and against customers' correspondence, if any. In many instances, we have had to contact customers by letter and/or by long-distance telephone to verify information.

Yet, despite the monumental financial loss and the even greater loss of our time which Lange has caused us, we have continued to offer the courses on the trust, funding them out of our remaining personal assets. We are paying for the publication of the books on the trust out of our own pocket. The latter is more difficult and more time-consuming because book production (aside from the actual writing) depends totally upon flatlanders. We have had a number of flatland subcontractors renege upon us over the years. Each time this happens, we are compelled to lose more time while we try to locate a more reliable subcontractor.

One of the reasons that progress comes so slowly is that the two of us must do everything that has to be done in our various companies. Thanks to Lange's thefts from FEI (the Institute, in addition to the trust), we can no longer afford any full-time associates, since these, too, would have to be funded out of our own capital. Galambos has a part-time assistant for his podium work, and we have a part-time assistant handling sales of books and cachets at our classes.

Several customers have complained that they have not received regular reports as to what transpired with respect to Lange, the status of the courses and books on the respective trusts.

We think you will agree that, given the handicaps under which we are operating -- and we are operating -- getting books published and new concepts recorded on tape via courses are the most important achievements we can complete at this time. Since most of you are younger than we are and many of you have -- or will have -- posterity, every

thing you value is "riding" on the moral publication and utilization of Galambos's theories as soon as practicable. This means publication by Galambos himself or by his explicitly named successor, followed by utilization of the theories by every one who recognizes their value. (This means utilization all of the time and not just when it happens to be convenient.) Actually, the moneys you paid for your pre-publication subscriptions are the very least of what you have at stake.

The schedule we have maintained over the past three-and-a-half years (not speaking of the schedule we maintained prior to 1984) would have killed any less dedicated persons. Frankly, I know of no living persons who even would have attempted it, given our circumstances. If you haven't had the experience, you cannot imagine what it is like to be a sensitive cosmological innovator who has been betrayed ideologically and emotionally and wrecked financially by someone whom he considered to be his best friend. And while this is happening, a number of individuals -- each of whom has profited hugely just from studying his original concepts -- stand idly by and watch it happen. In some instances, they actually cooperate with the betrayal.

It is the trauma of this large-scale betrayal, we are convinced, and not the hard work which brought about Professor Galambos's coronary thrombosis last year (see following paragraphs).

The fact remains that we have lost prime production time in the years since 1984. We have had to invoke the term in the book contract which enables us to put out Book 1 in several volumes. We had planned the first volume for publication in 1987. Galambos's coronary thrombosis rendered that plan impossible of achievement. Please bear in mind that we are committed to publishing Book 5 (MORE LASTING THAN BRONZE) prior to the actual release of any other of our titles. You will recall that "More Lasting than Bronze" is part of the translation of the Latin quotation, "Exegi monumentum aere perennius" ("I have erected a monument more lasting than bronze").

We had our book publishing schedules worked out for 1987, and we were moving as fast as possible, when, as you may know, Professor Galambos suffered a coronary thrombosis last May. He endeavored to continue working even while he was hospitalized. But his lectures and his books had to be postponed.

He wanted to give the lectures he had scheduled for July 4th for Thomas Paine and July 5th for the 300th anniversary of the publication of Newton's PRINCIPIA. But as the weeks passed, it became increasingly apparent that, to do so, might permanently jeopardize the rest of his achievements.

Reluctantly he decided to put the heart before the course.

Nevertheless, the postponed lectures were all delivered prior to the end of 1987.

We mention all of this to you so that you should be aware (if you are not already) of Lange's acts of major coercion. We also want you to be aware of Professor Galambos's coronary thrombosis.



That he has wrecked us financially is of no interest to Lange. That his crime may have far wider repercussions than "merely" the destruction of a friend who trusted him apparently does not concern Lange.

Contrary to the stories about his "innocence" which Lange has circulated in some areas -- stories which can be most delicately summed up in the single word, "eyewash", -- this was a well-planned and carefully orchestrated theft. No amount of protestation can wipe away the irrefutable evidence of Lange's guilt. We will not burden you with the ugly details of this evidence.

Ironically, a number of our long-time customers and even several of our tape course contractors could have prevented the bulk of this theft if only one of them had made just a single telephone call or had dropped a short note to either Professor Galambos or to me. As we learned much too late (1984, July), Lange had obtained large sums of money from a number of FEI customers as well as from several then-active tape course contractors and several former tape course contractors.

Sometime around 1980, Lange apparently decided to go into the real estate business. He claimed he wasn't earning enough through FEI and its related entities. (Considering what he was receiving on a contractual basis, this was a little hard to believe, but that is what he claimed.) He told Galambos that he planned to have some outside investors (sic) in his venture. Galambos said immediately, "I presume that none of them is from my market."

As you, our customers, know very well, as a condition of taking post-V-201 courses, our graduates agree contractually that they will not use the AJG or FEI market for any purpose not derived from AJG. This particular contractual agreement is even more strictly applied to our tape course contractors. Violation of this particular agreement, particularly if it were to involve raising capital from our customers, would be grounds for immediate termination of any contractual relationship with us.

Lange assured Galambos that all of his (Lange's) investors or would-be investors were flatlanders. "I know your policy on this," Lange added.

Since Galambos was talking with a man whom he had come to value as a friend and to trust as an associate for many years, he had no reason to question Lange further on this matter.

We would learn, however, -- and much too late -- that Lange's assurance was a lie, like nearly everything else Lange had told us over the more-than-two decades he was worming his way into Galambos's trust and confidence. As I mentioned above, Lange had obtained very large sums of money from a number of FEI customers as well as from several former tape course contractors and several then-active contractors.

Had even one of these individuals inquired of us, "Are you aware that Lange is raising capital in your market?", Lange would have been terminated immediately, and the bulk of the trusts could have been saved.

Don't ask us why persons who consider themselves to be moral and rational would knowingly participate in an obviously immoral act. The fact remains that they did. As you may have already guessed, every one

of them lost whatever he or she speculated with Lange. And these were large amounts of money by anyone's standards.

The more sensitive among you will recognize that most of you already have been compensated for any delay in the delivery of books. (There has been no delay in the delivery of courses. Immediately following Galambos's coronary thrombosis, several lectures were postponed, but these all were delivered before the end of 1987.)

For instance, those of you who have contracts on the course trust will recall that, if you were in the Open-End Course at the time you entered into the course contract, you received up to a maximum of a 10% discount from your total tuition on the contract. This was provided to you with the contractual understanding that, if you resigned from OEC, you owed back to us the dollar amount of the discount. Many you resigned from OEC long ago. Not one of the persons who resigned from OEC ever returned a dollar or even a penny!

Those of you who subscribed to Book 1 during the 1970's received a full refund of all moneys you paid to us. You had the option -- if you so chose -- to resubscribe to the book under the book trust for the same dollar amount that you originally paid. This offer was made despite the fact that, by 1978, when the trust first came into being, Book 1 subscriptions were selling for more than twice (in some instances) what you had paid for your original subscription. Please bear in mind that you had a full refund of your book payment(s) in your hand at the time you made the decision -- wholly yours -- to resubscribe.

As of this writing, Book 1 is selling for \$750.00, and, when the first volume comes off the press, there is likely to be an additional increase, but this will not be retroactive. The increase will only affect new subscribers, not those of you who purchased books on the trust.

Those of you who utilized time payment plans for the purchase of our books will recall that the contracts call for an annual inflation adjustment on any unpaid balance. None of you was ever charged in inflation adjustment because Lange reneged on his obligation to prepare the figures for and collect the inflation adjustment. Galambos, on the other hand, was unwilling to invoke an inflation adjustment for more than one year at a time. He refused to allow Lange to levy the adjustment for several years at once. Therefore, he (Galambos) lost the entire inflation adjustment, and his customers gained therefrom.

We are presently in the process of delivering the "Positive Victory" coin-medals, which we also had to fund out of our own resources because Lange stole moneys from the coin-medal account. These coin-medals were struck in 1987, and we have been delivering them in groups as we are able to determine which customer ordered how many medals and which serially numbered medals he or she ordered -- and, not incidentally, whether or not he or she paid for the medals. Those of you who have already been contacted about your coin-medals have some sensitivity to the monumental task involved in getting just this single product into the hands of its subscribers. (If you ordered this coin-medal and have not yet heard from us, please bear with us. We'll be contacting many of you in June or July to arrange for delivery of your coin-medals in August.)

Your cooperation in this matter will be very much appreciated.

We have not received any profit from the hundreds of "Positive Victory" coin-medals which were paid for while Lange was handling (and, as it turned out, stealing) moneys for this account. We also have lost literally hundreds of hours of valuable time just on this product alone, compiling careful records so that we can deliver these coin-medals.

It's the loss of the time that hurts the most, for that can never be recovered.

Speaking of our products, let me remind you of just some of the products which we have put into the market since 1978, July, when subscriptions to courses and books were first made available under the trusts.

Galambos has presented at least 63 new live courses. This does not include any courses presented on tape nor does it include any of the three courses in the Open-End Course series with a total of 20 lectures presented live each year.

Galambos has conceived and produced two coin-medals, the Joseph B. Galambos commemorative coin-medal and the "Positive Victory" coin-medal.

Galambos has conceived, produced, and published eight major and unique philatelic cachets, each of which is a mini-education in itself.

Galambos has written and published two monographs, the second of which he wrote within a few days of his coming home from the hospital, following his coronary thrombosis.

Volume I of Book 1, Book 2, Book 5, and Book 7 were being readied for publication when Galambos had a coronary thrombosis last year. We were slowed down, but we are continuing as rapidly as is consistent with the kind of quality achievement you have come to expect (and, I suspect, have come to take for granted) from Galambos.

As you look over the preceding five paragraphs, bear in mind that moneys paid on or before 1984, June 30, for FEI courses scheduled for later presentation, were stolen by Lange (whether they were paid into the course trust or paid to FEI directly). This means that we have personally funded, without any profit, all FEI courses for which tuitions were paid prior to 1984, June 30.

We urge you to provide us with your most current address, and, if you have a change of address, please do let us know. As the books are published, we want to make delivery as quickly as possible. We cannot take the time to track down customers for whom we do not have a "good" address. (The book contract specifically states that we will not do this.) Our previous letters to many of you have come back from the post office undelivered. We are sending this letter to the last address which we have for you.

As the books are published, we will advise you by letter. If the letter is returned to us by the post office as being undeliverable, we will put your book(s) in storage at your expense. We will not attempt to deliver books to an address that we have been advised is incorrect. Please keep in mind that, after seven years, we are obligated to turn over the

property to the State of California in something called "escheat".

In the event that our records show that you have an outstanding balance on your book subscription account and you are certain that you are paid in full, we will request that you provide us with copies of all cancelled checks and/or receipts for your book payments so that we can resolve the disparity as quickly as possible before any books are delivered to you.

We call your attention to the fact that all books will be shipped to subscribers at the subscribers' expense. You may prefer -- and you are certainly welcome -- to pick up your books at any live class we present, provided you make an advance appointment to come at least one hour before the class begins. If you are a V-201 graduate in good standing, you are welcome to enroll in the then-current class. Our live lectures are currently being presented in the Holiday Inn in Montebello next to the Santa Ana Taxway at the Slauson Avenue exit.

In the meantime, this letter has been "sandwiched in" amid production of some of the most important (V-201 definition -- remember) products the world has ever known.

Without the implementation of primary property theory and volitional science, the future of our civilization (not even speaking of our species) is rather bleak. Without these concepts, those of you who have children or ever expect to have children will have brought them into the world for nothing. (It could well be that civilization as we know it does not have remaining to it the length of time of another generation. Or do you really believe that international or home-grown terrorism will produce a stabilized durable civilization?)

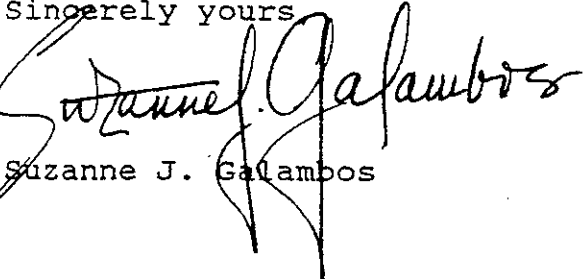
Those of you who do not have posterity, nevertheless, have a life of your own to live and values of your own to leave as a recognition of your having lived.

Most of us are not cosmological innovators. A few of us have been privileged to learn from one.

But no matter what the level of your comprehension may be, each of you has the opportunity -- by virtue of the concepts you have learned from Galambos -- to leave the world a better place than you found it.

I urge you most sincerely: Don't blow that opportunity. You won't have another. Look around you. There is nothing else on the horizon that can have the kind of positive effect on civilization that Professor Galambos's theories can have.

Sincerely yours



Suzanne J. Galambos

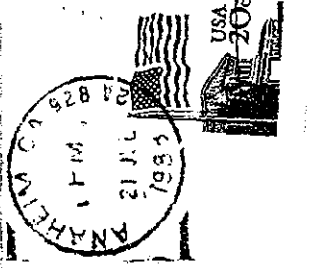
1988, March 15

DOWN

THE UNIVERSAL SCIENTIFIC PUBLICATIONS COMPANY, INC.

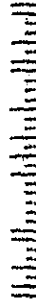
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Post Office Box 9709 / Anaheim, California 92812



Mr. and Mrs. Jerome J. Stumps  
 8547 Sixth Street  
 Downey, California 90241

**RETURN RECEIPT  
 REQUESTED**



*Fold all lines over top of envelope to the right of the return address.*

**CERTIFIED**

P 721 556 018

**MAIL**

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**PROOF OF SERVICE**

[CCP, 1013A(3) CRC Rule 2006(d) - Revised 3/1/92]

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**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:**

7 I am employed in the County of Los Angeles, State of California. I am over the age of  
8 18 and not a party to the within action; my business address is 315 West Arden Avenue, Suite  
9 11, Glendale, CA 91203.

10 On May 2, 2007, I served the foregoing document described as: **DEFENDANT**  
11 **HAYES' REPLY TO PLAINTIFFS' OPPOSITION TO MOTION FOR SUMMARY**  
12 **JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION OF**  
13 **ISSUES** on the interested parties in this action by placing a true copy thereof enclosed in  
14 sealed envelope(s) addressed as follows:

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**SEE ATTACHED SERVICE LIST**

18  (**BY MAIL**) I caused such envelope with postage thereon fully prepaid to be placed in  
19 the U.S. mail at Glendale, California. I am "readily familiar" with the firm's practice  
20 of collection and processing correspondence for mailing. It is deposited with U.S.  
21 Postal Service on that same day in the ordinary course of business. I am aware that on  
22 motion of a party served, service is presumed invalid if postal cancellation date or  
23 postage meter date is more than 1 day after date of deposit for mailing in affidavit.

24  (**BY PERSONAL DELIVERY**) I delivered such envelope by hand to the office of the  
25 addressee(s) noted above.

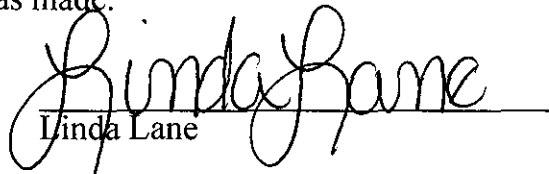
26  (**BY FACSIMILE TRANSMISSION**) I caused such document to be transmitted to the  
27 addressee(s) facsimile number noted above. The facsimile machine I used complied  
28 with Rule 2003(3) and the transmission was reported as complete and without error.  
Pursuant to Rule 2005(I), I caused the machine to print a transmission record of the  
facsimile transmission, a copy of which is attached to this declaration.

(**BY OVERNIGHT DELIVERY**) I caused such envelope(s) to be deposited in a box  
or other facility regularly maintained by the Federal Express service carrier, or  
delivered to an authorized courier or driver authorized by the express service carrier  
with delivery fees paid or provided for, addressed to the person on whom it is to be  
served, at the office address as last given by that person on any document filed in the  
cause and served on the party making service.

Executed on **May 2, 2007**, Glendale, California.

[**STATE**] I declare under penalty of perjury under the laws of the State of California  
that the above is true and correct and, that I am employed in the office of a member of  
the bar of this court at whose direction the service was made.

[**FEDERAL**] I declare that I am employed in the office of a member of the bar of this  
Court at whose direction the service was made.

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Linda Lane

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**SERVICE LIST**

Re: Marks, et al., v. Joyner, et al.  
LASC Case No. BC352639

Jonathan K. Golden, Esq.  
1900 Avenue of the Stars, Suite 1900  
Los Angeles, CA 90067  
Phone No.: (310) 553-3830  
Fax No.: (310) 553-1337

Attorney for Plaintiffs

John P. Godsil, Esq.  
Freeman Freeman & Smiley, LLP  
3415 Sepulveda Blvd., Suite 1200  
Los Angeles, CA 90034  
Phone No.: (310) 255-6100  
Fax No.: (310) 391-4042

Attorney for Defendants Wayne Joyner,  
The Universal Scientific Publications  
Company Trust, The Universal Scientific  
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