

Agreements From **Heaven** or **Hell** You Choose!



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What We Will Be Talking About



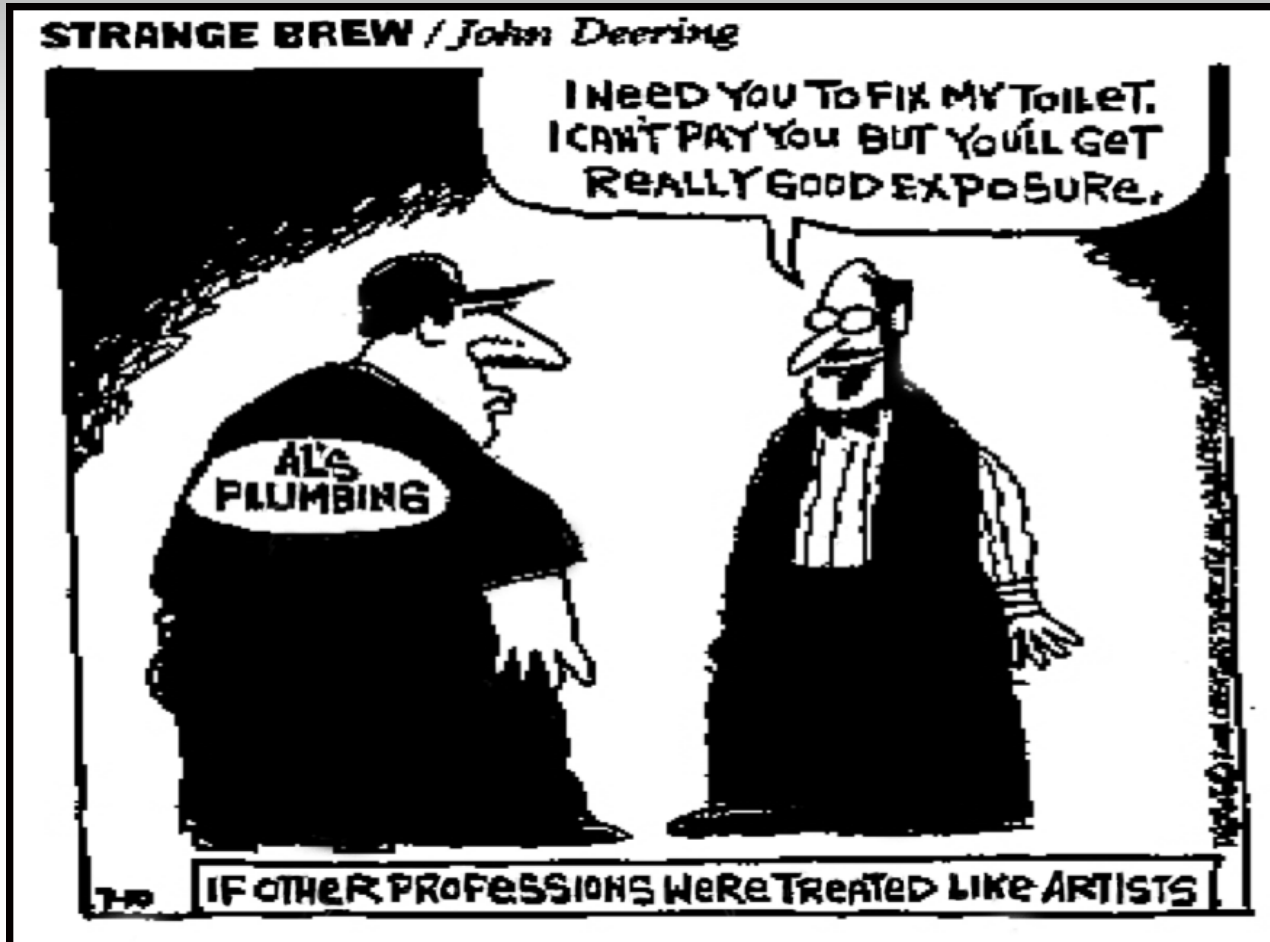
- We begin with Teri's war story
- Then Teri will tell you about her 10 favorite contract terms
- Next I will discuss five terms you should try to avoid
- Then Teri will take you through 4 or 5 provisions from hell you **should** avoid
- Finally before taking questions, we will give you some suggestions about winning the battle of the forms

Teri's War Story....Many Years Ago

- I was just starting out as a sole proprietor in 1981
- My first book--Wow!
- It was Work for Hire
- I was naïve




Life as an Artist



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The Moral of the Story Is:

- Get some knowledge 
- Add some Experience
- And use some Chutzpah
- Mix them up, and you'll have better contracting skills which will impact your bottom line

Teri's Top 10

Favorite Contract Terms



- Remember: the four W's:
Who, What, Where and When
- Sharpen your pencil: be specific

1. Non-Exclusive Rights

- Don't give your client exclusive rights unless it is willing to pay for them
- The drawback of exclusivity: you can't license the illustration to any one else no matter what
- A non-exclusive license gives you flexibility and allows for future revenue if others also want to license your illustration



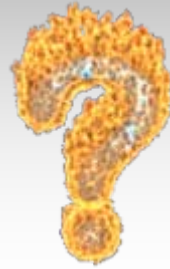
2. U.S. Print Rights Only

- Your client can use the illustration only in print



- Your client can use the illustration only in U.S.
- Add “no electronic rights” for better protection

3. The Purpose Clause



- Be inquisitive: find out how the client intends to use the illustration.
- Draft your agreement so that the client can use the illustration for its intended purpose and for nothing else

4. The Copyright Notice

- It's more than a credit byline
- It tells the world it's your property
- No one can infringe your work innocently




5. Payment Terms



- Set a definite time for payment
- Condition the continuation of the license on payment within your time frame

6. Additional Licenses for Additional Uses

- Make it clear that other uses beyond the ones you have authorized require your advance approval 
- Require payment within a specific time frame after the new use is made



7. No Sale, Transfer or Sharing With Others



- Only allow those with whom you have contracted to use your illustrations
- Once others downstream take possession of your work, controlling and policing it becomes much harder

8. No Alterations, Please

- Don't let the client alter your illustration



9. Don't Let the Client Use the Illustration in a Revision

- You can prohibit this use



10. Irreconcilable Differences



- Have your client agree to resolve its disputes with you in the state of your choice



Five Provisions to Avoid If You Can



- 1. Work for hire
- 2. All forms of media including those later developed
- 3. The sub-licensing of your work
- 4. A vague purpose clause
- 5. A broad indemnification clause

Work for Hire



- Watch out for this one
- Work for hire means work you no longer own
- The two steps the client must take to make your image a work for hire
- The dreaded consequences of a work for hire
- Safer alternatives

The All Forms of Media Now and in the Future Clause



- What it means: your client can use your illustration in media you both never contemplated
- A narrower alternative

The Right to License or Sub-License to Others



- If this clause is there, expect that your work will wind up in unexpected hands that will use your work in unexpected ways ... if you happen to discover them

A Vague Purpose Clause



- Ambiguity Will Cost You

A Broad Indemnity Clause

- They can be expensive: try to narrow them



Five Provisions From Hell to Avoid

- The Retroactive Rights Grab
- The Perpetual License
- The Mousetrap
- The Client as Editor
- The Competing Publication Prohibition



The Retroactive Rights Grab



- The greedy client trying to have it all
- The client even wants rights to works it never licensed

The Perpetual License

- Don't allow your license to turn into an Evergreen



The Mousetrap

- Don't be lulled into swallowing the bait by a benign introductory clause
- Read it all before you sign



Miscellaneous Bads



- Your client is not your editor
- Stay away from a “competing publications” prohibition

Winning the Battle of the Forms

- Don't be shy: if the client's purchase order contains provisions that contradict yours or that you disagree with, cross them out
- If you do nothing, your silence may be acceptance of these additional terms



QUESTIONS

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