

filmprint

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January/February 2007 \$5.00

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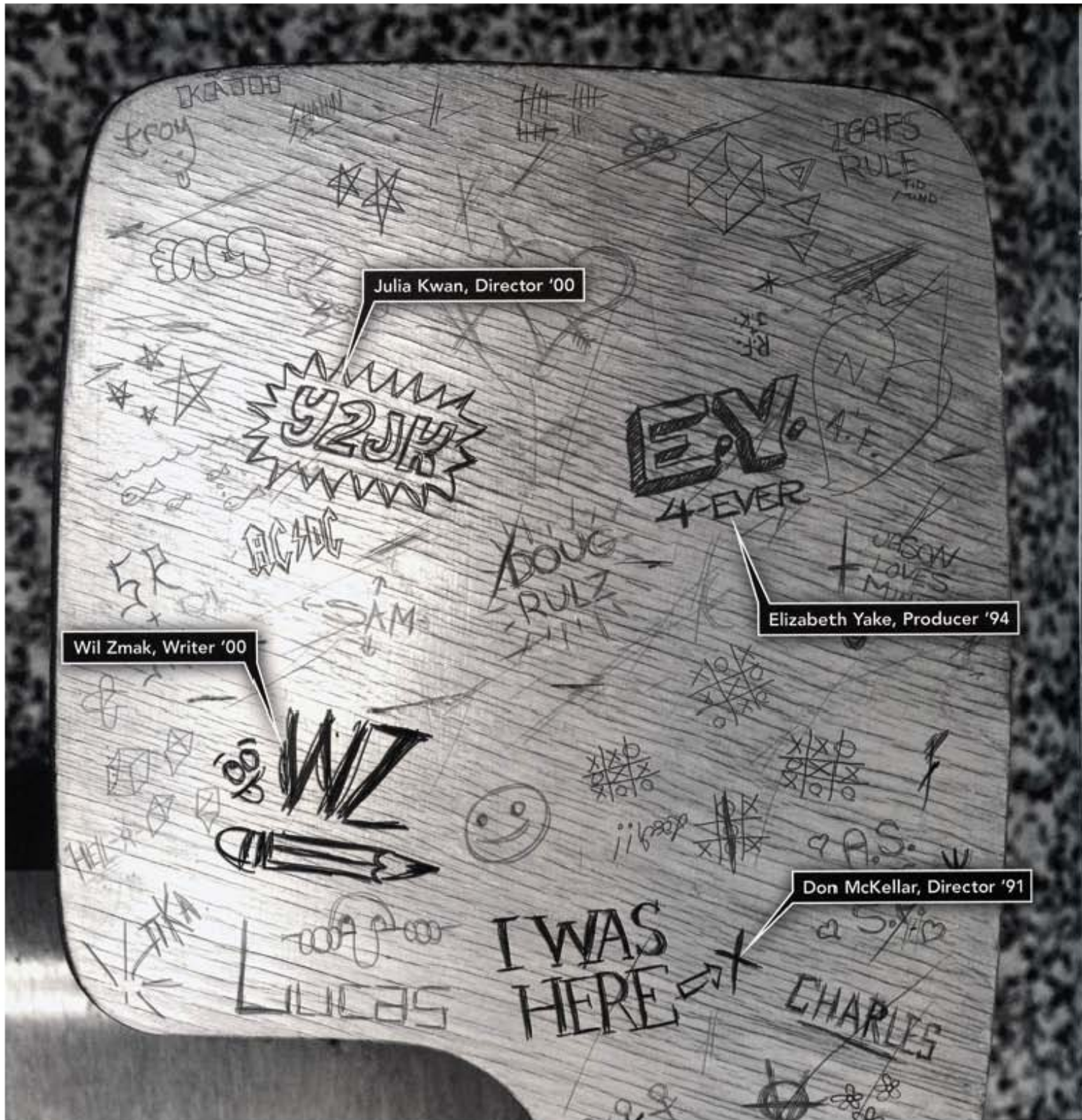
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AND TORONTO REEL ASIAN REPORTS

BONNIE SHERR KLEIN IS SHAMELESS





Julia Kwan, Director '00

Elizabeth Yake, Producer '94

Wil Zmak, Writer '00

Don McKellar, Director '91

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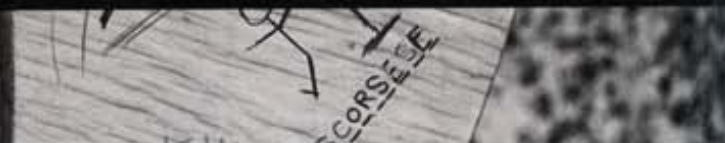
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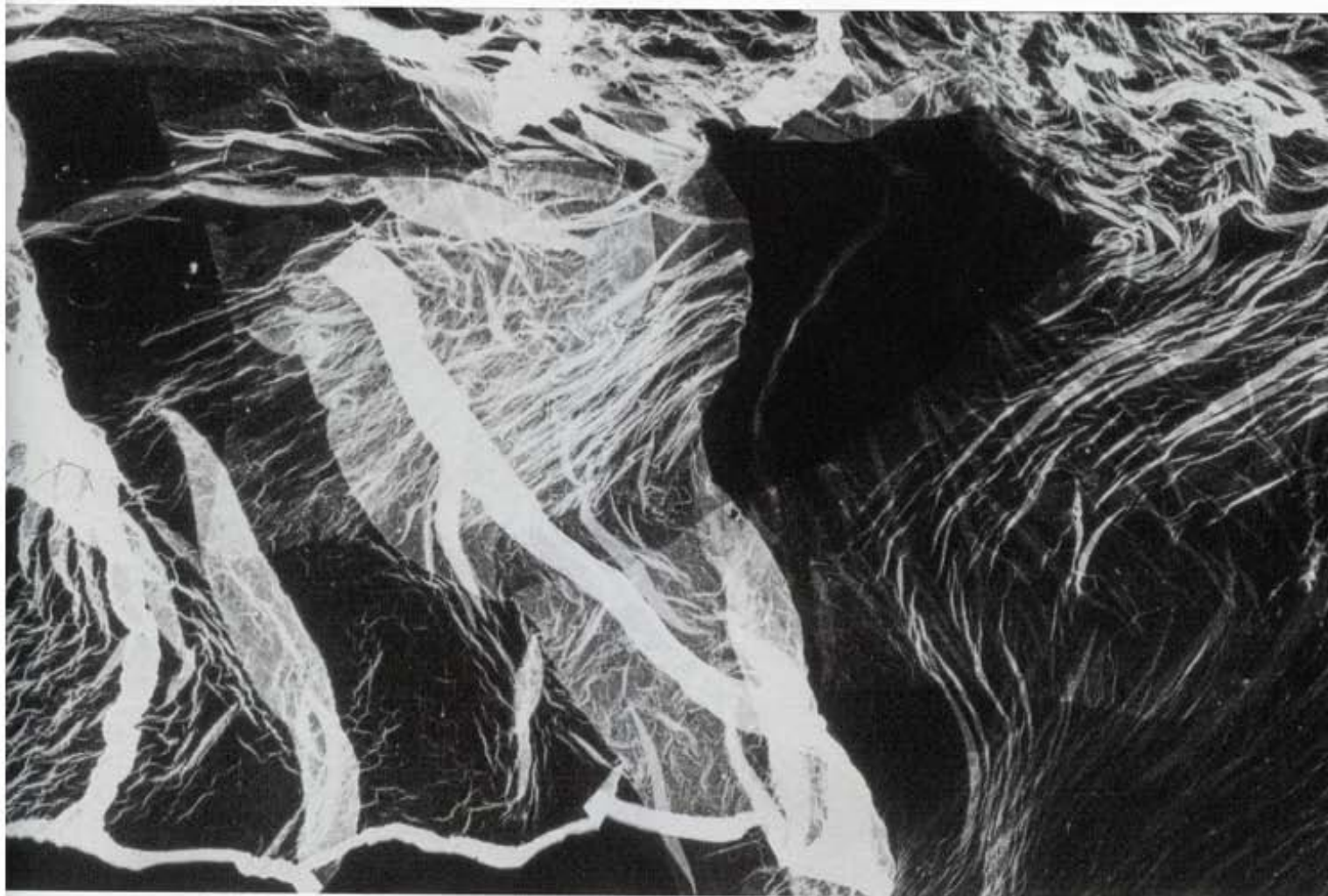
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(Cover) R. Bruce Elder (Photo Credit: Lucas Martin),
(Above) Madi Piller's *Vive le Film*

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The Liaison of Independent Filmmakers of Toronto is a non-profit charitable organization that provides Toronto's vibrant independent filmmaking community with affordable access to production equipment and post-production facilities, educational services, film screenings and much more. For over two decades, LIFT has played an integral part in advancing and promoting the art of independent filmmaking in Toronto.

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EYE WEEKLY



Detail from Madi Piller's *Vive le Film*



"Finish What You Start"

It is so earth shatteringly simple. A friend of mine encouraged me to write this phrase and stick it in a prominent place. I took her advice, wrote it on a post-it and stuck it on my computer. And the mantra has been propelling me forward ever since. Get from point A to point B. Put one foot in front of the other. Finish what you start.

With all aspects of filmmaking, you've got to take the baby steps to reach your final destination. As script doc Robert McKee declares war on the cliché, newbie and seasoned screenwriters flocked to his Story seminar in Toronto last month to hear McKeeisms on how to produce that stellar script. Check out what our writer learned on page 18.

This month's Super 8 (p. 28) Bonnie Sherr Klein is in many ways a pioneer, going where others fear to tread. Making films since the 60s, Klein made the acclaimed **Not a Love Story: A Film about Pornography** in 1981. In 1987, Klein suffered a stroke that left her paralyzed. Looking through the NFB's catalogue of films on disability, Klein found that not one film had been made by a person who had a disability. Klein's **Shameless: The Art of Disability** is a step forward in redressing the balance.

In "The Scared Light: In Conversation with R. Bruce Elder" (p. 10), Elder gives some insight into his philosophies with his latest work **The Young Prince**. Most fascinating is learning about his beginnings as a filmmaker and his toying with the idea of giving up film for video.

Two articles get into the legal thick of things. Are you getting yourself a worldwide audience or agreeing to be scammed? "The More We Get Together" (p. 24) delves into the paradise and the pitfalls of online distribution. Filmmaker and lawyer Graham Peddie gives us the lowdown on intellectual property and copyright in "There's No Business Like Show Business" (p. 26).

As we inch closer to the new year, make the commitment to finish what you start whether it's folding your laundry, editing your film or reading this issue of *FilmPrint*.

Happy holidays.

Bunmi Adeoye



I Have No Memory Of My Direction by Midi Onodera



Little Red Flowers by Zhang Yuan

THE REEL DEAL

After a decade, Toronto's
Reel Asian Film Fest has come a long way,
but there's still a ways to go

BY GLORIA KIM

At ten years old, the Toronto Reel Asian International Film Festival is all grown up and with somewhere to go. "We're still fighting the prevailing notion that we are mainly a 'subtitled-movie' festival," says festival director Deanna Wong. "Part of the reason the festival exists is to demonstrate that Asians don't just speak English with accents; that they can fill any role, not just stereotypical delivery boy, Laundromat owner, dragon lady roles. I think the festival has been really successful at growing at a steady, manageable pace while remaining true to its roots. We've always had a strong mandate to support the work of local artists, both emerging and experienced, as well as bringing work by Asian filmmakers all over the world to Toronto audiences. In the first year, we showed only five Canadian films. This year that number has grown to more than 30."

In honour of its ten-year anniversary, the festival has programmed a retrospective of "The Best of Reel Asian" that they have co-presented with the Hamilton Artists Inc. Entitled

"Delicately Devastating: Over a Decade of Independent Asian-Canadian Film and Video", they have included works by artists like Luo Li, Julia Kwan, Ruthann Lee, Ann Marie Fleming, Kanhthuan Tran and Richard Fung.

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It's broadening
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of Asian-Canadian
art and practice.**

Themes revolve around generational change, idiosyncratic mythologies, intimacy, sexuality and notions of home and family. Juxtaposing that, the closing night program BitterSweet Roots is the best of emerging shorts from

Asian-Canadian indie filmmakers. "It's interesting for me as a programmer and artist to see the change in the work from the retrospective program and the work that's being created today," says programmer Heather Keung. "The films in the retrospective told stories of racism and going home and had a more traditional approach to identity politics, more heartbreaking, like Richard Fung's *Sea in the Blood*, a self-exploratory documentary that has sparked almost a genre of filmmaking in and of itself. By contrast the Bittersweet Roots program is almost more cheeky and optimistic. It still deals with identity politics, and it couldn't have been made without the films that came before, but they're freer to play with tone and storytelling."

Some of the most interesting offerings in the Bittersweet Roots program are award-winning filmmaker Samuel Kihoon Lee's *5 x 9c: The Wake*, a blackly humorous look at what the filmmaker has imagined to be his own death. Set as a tableau, the scene is replayed multiple times as each of the



Dan Carter by Alison S. M. Kobayashi

characters in Lee's imagined life has their own conversation about Lee, each revealing multiple shades to his personality from endearing to devious. At once ironic and slyly witty, each scenario ends exactly the same way, with pseudo-uplifting music and a pseudo-poetic shot of a red balloon floating up into the blue sky. Lee's piece pokes fun at himself as well as notions of death and life. Meanwhile, Alison S. M. Kobayashi, a third-year University of Toronto student, has taken her obsession with people's identity memorabilia and made daring use of a found answering machine tape, in her piece **Dan Carter**. As the tape plays, Kobayashi acts out each person's message. Dan himself appears, along with officials, church counselors, his son, his ex-wife and his new fiancée. The effect is often hilarious, tragic and slightly creepy.

Another place we see how far the festival has evolved is in the Canadian Artist Feature. A showcase and talk

with artist Ho Tam around his first feature **Books of James**, a portrait of Tam's friend James Wentzy, an artist and AIDS activist in New York City, the

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festival programmers struggled with this decision initially. "We had to discuss where we were going as a festival," says Keung. "Ho Tam has done a lot of pieces centred around queer

Asian males and in this, James is a white activist, and initially Tam was confused why we'd be interested. But as a festival we support Asian filmmakers, whether the subject matter is Asian. Asian artists are making art in different fields and in different ways and it's not so clear-cut anymore. It's broadening and re-defining what people think of Asian-Canadian art and practice."

Made over a period of eight years, the piece is narrated by Wentzy through his diaries and chronicles his 30 year struggle with AIDS and documents his activism through ACT UP protests in the 1990s and his 160 segments produced for AIDS Community Television. Tam himself does not appear in this work, but it is personally significant in that Tam lost a partner to AIDS more than 11 years ago.

Also new to the festival is its industry series, which they hope to make permanent. With such industry heavy hitters as Hussain Amarshi, president



Banana Bruises by Joyce Wong

and founder of Mongrel Media, Carrie Paupst Shaughnessy, creative feature film analyst for Telefilm Canada and Robin Smith, vice president at Capri Releasing, the series offers filmmakers the chance to meet executives from all aspects of the film industry, from distributors to broadcasters to funding agencies. They have also launched a website called RAfilms.ca where Asian-Canadian filmmakers can showcase a short clip from their films, along with info about distribution, award wins and more. "I'm really excited about this because it means that even if a film doesn't get picked up for distribution, it will live on in the internet, where anyone can get a taste of what their work is like," says Wong. "It's still pretty small, only 43 works, but our long-term hopes are for it to be a place where educators, distributors, programmers and whoever will know to turn to if they're looking for a certain type of film for whatever their purpose is."

Reel Asian has come a long way in the last ten years, but it still has a long way to go yet. "If you're talking about North American Asian cinema, some

Alison S. M. Kobayashi,
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people have found their voice and have moved beyond identity politics as the basis for their films," says Wong. "A us film we showed back in 1998, **Yellow**, told the story of a Korean-American protagonist whose family store is robbed, potentially jeopardizing his

dreams of going away to college. What made this film so appealing to me back then was that this film showed a group of friends onscreen who looked like me and who happened to be Asian – they weren't Asian for a reason. We still need many, many more films like this."



HEAD CASES

Rendezvous with Madness
| peels back the many layers of mental illness

By Heather Richards

There is something about movies that focus on mental illness as opposed to any other featured disease. These films get under your skin. The stakes are higher and there is something compelling about the subject matter. We just do not understand it. People with mental illness live in a home with a shaky foundation, a body at the edge of itself being distorted at its very core, the mind.

Mental illness is complicated and we may never get to the nucleus of it, but tearing and gnawing away at its layers anyway are the films presented in the Rendezvous with Madness Film Festival. Each film attempts to further our understanding, pushing the boundaries of our knowledge.

Thin is a gripping narrative exploring the emotional and physical lives of young girls at war with their bodies, using starvation as ammunition. Welcome to the Renfrew Centre in Florida, which, sadly, could be located just about anywhere in North America. The desire to be thin beyond obsession unfolds as a daily struggle that is wrought with angst and drama. This raging desire to shed weight to the point of disappearing has been often portrayed as having its origin in media images. But there is no finger-pointing here. Each life story is laid out for the viewer to contemplate without blame.

Archival footage, still photos and in-

depth interviews with those who knew him best is the film *Remembering Arthur*, as in the avant-garde Canadian filmmaker Arthur Lipsett. Mental illness and undisputed, pure genius are expected to form an alliance, often linking one with the other. There is usually a creative undertone to mental illness; however, the illness often renders the person

Unfortunately for those struggling with and struggling to understand mental illness, some films (especially those from Hollywood) have been staggeringly unkind in its misrepresentation of mental illness.

unable to express this creativity. Following his lifespan, the viewer is led along a journey that begins with creative potential and spirals into tragedy.

"What is normal?" asks the film *Pretty Broken* by director Cline Mayo. And for those deemed to be on the outskirts of normal – we have all seen them on the street, public transportation, public spaces – what do we

think of them? Would it be easier for all of them to just go away? With a careful juxtaposition of dull, grainy and clear, lucid images, we are invited into a conversation with someone on the other side of normal. We are not only finally forced to listen to that other side, but we are also forced to witness our own fears and then to re-examine our views long after the film comes to an end.

A film by Jeremiah Munce lovingly displays the works of art called *The Alma Drawings*. These hauntingly, intricate pieces were not claimed by the artist herself who attributed them to a more mystical origin. She staunchly defends her position in recorded interviews used to narrate the film. Her voice is as haunting as the visuals displayed on screen. And through the reenactments of her seated, drawing in an automated fashion in her secluded home, the viewer is pulled into her fascinating world. It is a world filled with intrigue; a mythical mystery unfurls, filling the page with images, before our very eyes.

Transgendered people remain marginalized for all the reasons we expect that swirl around society's misunderstandings of those who are different. Born into a gender with which they do not identify, where is their place in a society that uses gender characterization for a major component of our

identity? This confusion translates into unspeakable horror when they are incarcerated and placed into jails based on the gender of their birth. **Cruel and Unusual** is an emotionally charged film uncovering the treatment faced by transgendered people in US federal prisons. As the film states, there is a jail for men and a jail for women, but no place for those described as other.

Unfortunately for those struggling with and struggling to understand mental illness, some films (especially those from Hollywood) have been staggeringly unkind in its misrepresentation of mental illness. Despite protests and demands for correct portrayal, these films are more often than not off the mark. The portrayals either demonize by accentuating the potential violent tendencies or will infantilize the character with childlike behaviour. The films showcased at the Rendezvous with Madness Film Festival cannot unlock all the mysteries associated with mental illness, but at least levels the playing field, offering insight and shedding light where there is all too often, nothing but darkness. ■

The Armo Drawings by Jeremiah Mance





Images from R. Bruce Elder's *The Young Prince*



THE SACRED LIGHT:
IN CONVERSATION WITH R. BRUCE ELDER

By Anya Wassenberg



I.

"Years ago, I used to tell people, only half facetiously, that I was a filmmaker because I wasn't a creative artist." So begins R. Bruce Elder, avant-garde filmmaker, writer and long time professor at Ryerson University. Currently, he is program director of the Ryerson/York Joint Graduate Programme in Communication and Culture. His films have been shown at galleries such as AGO, MOMA, the Centre Georges Pompidou and in various cities including around the world. In 1981, he was awarded a Los Angeles Film Critics Association Award for Independent/Experimental Film and Video. Most recently Elder has been working on **The Young Prince**, a film that examines notions of transformation along alchemical themes.

"I've been working with tools that leave lots of scope for chance operations in my films," he explains. "They contain two kinds of 'chance events'. I've been writing programs that assign processing to the images randomly. In addition, I've been hand processing and treating the film a little roughly, so the fluctuations in chemistry are very evident. It's a dialogue between old technology and new technology."



2.

The grounding of his work in philosophies, along with reference to other art forms, is a central proposition in much of Elder's work. **The Young Prince** is simply the culmination of a decade's long thought.

"I didn't have any designs on nature myself. I collect things. In the earlier years of my career, I was able to work largely without ideas. That's a rather blissful state: A state of *no* mind to not allow ideas or conceptions to get in the way, to have no filter between me and the world.

"I used to take my camera everywhere and collect the gifts that were waiting for me. But that came to an end. In the early 90s, it became apparent I could no longer do that. I had reams and reams of film. The way I'd been working became completely unaffordable. I thought about quitting film, making videos, but film really does evoke in me the feelings of being in a church. I associate the light of film with a kind of sacred light — similar to that of gothic cathedrals, and even when videos are projected, I don't feel that same kind of sacred resonance.



3•

"It occurred to me that this interest in light as being something sacred could be connected with another longstanding interest in numbers and certain harmonies. Musical patterns can be represented in mathematical terms. Pythagorean ideas interested me as well: harmony + light + number. Since I was quite young, I wondered whether light could be represented that way.

"I began using algorithms, composed music, but I had a nagging sense of dissatisfaction. I wasn't any longer simply collecting these gifts I'd encountered on my path, I was more and more a traditional artist. But, then I began to find [American experimental music composer, writer and visual artist] John Cage's ideas interesting. His work had the advantage of suggesting how one could allow work to come forth, but not impose on it. If you begin to use repetitive chance operations, if you let your work be decided by them, it turns the work over to a natural process."



+

The Young Prince is fifth in a new cycle of films beginning with **A Man Whose Life Was Full of Woe Has Been Surprised by Joy** (1997) and he's been aided in the labour intensive process by a team of assistants, with some help from the engineering department at Ryerson. The new cycle is called **The Book of Praise**, after the Presbyterian hymnal.

"I did talk myself into believing that film is a way of imparting energy. I became convinced that strong pieces have the effect of bringing the energies in you into some kind of harmony. I'm convinced that's how Baroque composers understood their polyphonies. The chemical and electrical processing I've been doing has been a way of reflecting on this kind of construct."



5

"One way in which we're aware of this transmission of energies is in the erotic. We hope for that transmission of energies." The body, and nude human forms, including the frankly erotic, are often the base subject of Elder's work. He sees his reverent view of that aspect of humanity as standing in opposition to much of current thought. "I'm absolutely appalled at the way the body is represented. What's troubling is this idea that our flesh bodies aren't somehow adequate." Elder includes his holistic view of sexuality and the body in the context of the Judeo-Christian tradition, in particular, with respect to Hebrew thought. "The natural world was brought about from divine energy, and manifests divine energy. Because of its association with soul, the body is something we should accept, and not consider the body as something available for endless transformation. The natural world possesses an order we must respect, and not impose."



6.

The artist as not imposing, the filmmaker as not creating. "It's allowing nature to bring forth works of art. We only create the conditions." ■

TELLING TALES

Aron Dunn uncovers the gap between expectation and results at the Robert McKee Story Seminar

It's damn hard to write about Robert McKee's Story seminar without evoking images of Nick Cage shuffling after the cantankerous Brian Cox in *Adaptation* these days. And I certainly don't want to provoke Bob's ire by bringing more clichés into the world. So I won't mention it as I recount my own experiences attending the seminar at U of T over the weekend. Arriving at Northup Frye hall I see a handful of industry types (and believe me, industry types are always a handful) milling around the craft table trying to avoid the glances and business cards of script-clutching newbies. I even see a couple of Lift Out Louders shuffling through their most recent pages. However, the rest of the attendees are of the wide-eyed, over-enthusiastic, aspiring variety. Bless!

Anyone versed in the dramatic principles that McKee teaches will know the gap that exists between expectation and result. Any writer who can open up this gap unleashes a narrative power that would rival splitting the atom. Like so many aspiring writers, I have come to the seminar this weekend seeking mastery of this power. But after years of studying the craft I've learned one thing about pursuing an object of desire: while I might actually get what I want, I certainly won't get it in the way I expect.

It quickly becomes apparent that McKee is true to the dramatic principles he teaches in both word and deed. His performance during the three-day seminar has all of the structure, arc,

tone and pacing of a well-crafted screenplay. Day One is essentially the First Act of this weekend-long drama. We learn the rules: no interruptions, no cell phones on pain of a \$10 fine, questions will only be answered on course material during the breaks, and, finally, two strikes and you are out. Then we are quickly introduced to the major players including character, setting, genre, and meaning. While other key figures like the inciting incident, beats,

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turning points, etc... that don't appear today, they do get foreshadowed. We are working with a pro, after all.

Over the course of Day One, McKee urges us to embrace both the sacred and profane. Our job as writers is to express truth and use every tool at our disposal. And he talks the talk as his salty, politically incorrect language brings a blush to many cheeks. But it is never gratuitous. He's demonstrating the emotional power that writing has. He demands that we learn to hate

euphemisms and that we work to bring clarity to our language. (This lesson is completely lost on me as I toss the word "apocryphal" into an anecdote about iPods over lunch with McKee. What the *fuck* was I thinking?) Ultimately, he urges us to hate imperfection. This is difference, McKee explains, between an amateur and professional writer. The amateur loves every word he writes and saves ever scrap of paper. The professional on the other hand wakes up on Tuesday morning hating what he loved as fell asleep on Monday night. The true writer destroys his work to win the war on cliché.

We laugh as McKee recites the script coverage that he wishes he could have written in his early days as a Hollywood reader. But for some of us, the laughter turns to cringing, as we uncover the truth beneath the wit. I've only read a fraction of the scripts that McKee has, but his percentage of rejections jive with my own experience. However, as McKee says, there is no competition for writers creating works of superior quality. The onus is on us, the writers, to do the gut-twisting work necessary to create works of surpassing quality.

Day Two raises the curtain on the Second Act bringing us to the heart of the matter, the essence of story: That all-important gap between expectation and result. Yet, the day's discussion feels more anecdotal than instructional. And this is the genius of McKee's lecture. He does in his three day semi-

nar what we must strive to do in our scripts. The anecdotes about wise guys at his local gym or lottery winners who go bankrupt within the year, or the danger of having a happy childhood beautifully dramatize the principles he's teaching us.

Listening to McKee talk about the transformational magic of storytelling, you might be tempted to believe that story itself could save the world. I consider asking him about it, but think better of it. The question is totally on the nose. You can't right the world's wrongs in a tall tale. The best you can hope for is creating that transcendent moment for your audience where they see a little of themselves in your characters. If you can create such a moment you might make your audience feel a little less alone in this life and make the world seem like a better place for 90 to 120 minutes.

True to his principles, McKee saves the best for last on Sunday, the Final Act. We go through Casablanca, scene by scene, applying all of the principles we've learned over the weekend. His final comments on the film, its relevance to his course and its universal appeal, are truly uplifting. It sends us out in into the cold November night inspired to "write the truth." These insights cut to the heart of why story is so necessary to this turbulent, heart-breaking experience we call modern life. As a writer it is your job to discover these insights for yourself.

As I said at the outset, I came here to unlock the power of that gap between

expectation and result. But if I am really honest with myself, I secretly came here for answers. Easy answers, really, to writing a blockbuster script that will net me a home in the Hollywood Hills or at the very least pay off my student loans. But that old gap between expectation and result opened wide and I didn't find these answers quite the way I expected to. The easy answers are not in McKee's book or seminar. They are down in the

The anecdotes about wise guys at his local gym or lottery winners who go bankrupt within the year, or the danger of having a happy childhood beautifully dramatize the principles he's teaching us.

"pit", as McKee says. In the scribbling of ideas and scratching them out until your hands are gnarled hooks. In the hammering of keys until your fingers are cracked and bleeding. The answers are in the work. And that's a difficult answer to accept. Now if you'll excuse me, I need to clear this screen so I can bang my head against it until it bleeds out my next script. ■

MCKEE BY THE NUMBERS

500,000
scripts are estimated to be started each year

40,000 to 50,000
scripts get registered with the Writers Guild of Canada; add a zero and that's the number of attempts made to register scripts

\$595
plus tax for the seminar

400 to 500
films made in Hollywood

210
pages in my notebook

200
students in attendance

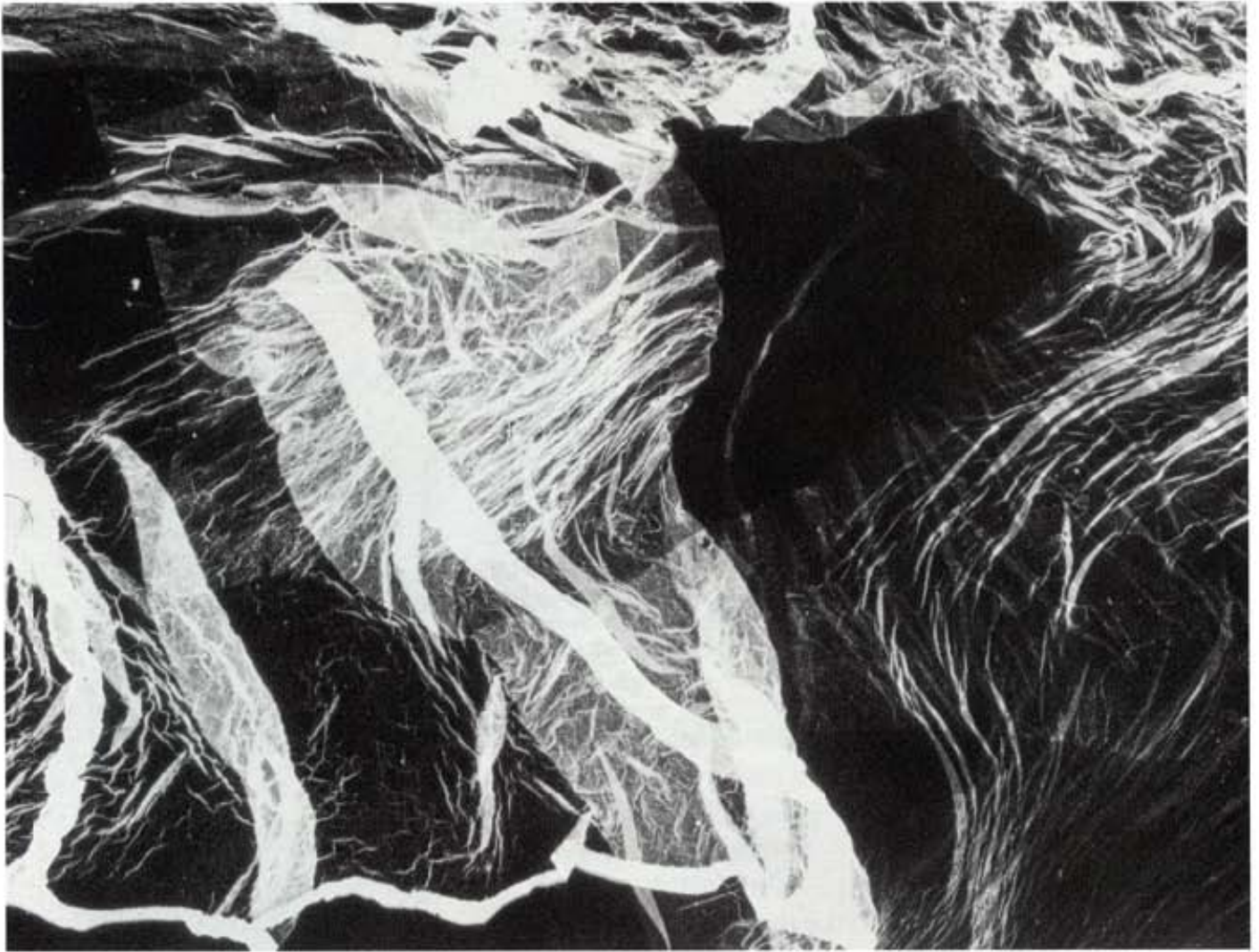
\$30
in cell phone fines handed out to various offenders

4
of my pens run dry

2
people ejected for persistent whispering

1
great story waiting to be told

■ FILM IS DEAD. LONG LIVE FILM.



LONG LIVE FILM

MADI PILLER

VIVE LE FILM

35MM, 5:00 MINUTES



BLAINE SPEIGEL |
SPARKS
16MM INSTALLATION |



Photo Credit: Forbes Campbell

ISTVAN KANTOR

THE BLOOD OF MANY FILMMAKERS

EXPANDED VIDEO PERFORMANCE



CLIVE HOLDEN |
MEAN
VIDEO, 3:00 MINUTES |

THE MORE WE GET TOGETHER...

It's not MySpace. It's TheirSpace.
Thinking of posting your film online?
Read this first.

By Jordan McTavish

So, you have finished your film, done some screenings, generated some buzz, and blown away the festival circuit. Now what? Cold storage? Maybe the internet could extend the life of your production, and expand its viewership. You could post it on YouTube or GoogleVideo or maybe on iFilm, and if it goes "viral", you could have a thousand new viewers by the end of the day.

If you're considering this step then read the following paragraph closely:

"...you specifically authorize the IFILM Network and Affiliates to use such Posting in whole or in part, throughout the universe, and you are automatically granting IFILM and Affiliates a royalty-free, perpetual, irrevocable, unrestricted, unconditional, non-exclusive license to use, reproduce, modify, publish, edit, adapt, create derivative works from, translate, distribute, perform, display and otherwise exploit such Posting ... all without any notification or obligation to you, of compensation, attribution or otherwise".

Derivative works? Unconditional licence? Throughout the universe?! Unsettling, isn't it. A few dozen articles about this controversial paragraph can be found under the search "ifilm terms of use", but hundreds of thousands of users agree to similar conditions – regardless of whether they realise it or not – every day.

It's no wonder online video communities are such a hot commodity. The viewership is staggering, meaning limitless advertisement opportunities. YouTube claims 100 million video views every day. iFILM has over 10 million viewers per month. MySpace has over 130 million accounts and receives over 50,000 new videos daily. Of course, we're talking quantity, not quality, as the vast majority of content out there is capricious adolescence, pornography or family content. There is also an abundance of copyright-infringed postings of TV shows and movie clips, which video posting sites contractually indemnify themselves from.

But somewhere in that mix is the short film and millions of viewers seek a higher level of entertainment than clumsy animals and marketing experiments. Sites like AtomFilms.com will accept short film submissions by genre and works as an online short film channel that will pay you a form of royalties based on page impressions and pay-per-click. Similarly, Revver.com previews your content with ads and when someone clicks the ad, you get paid. You might not endorse the product, and you still give up the universal licence to your works, but at least there is some recognition of the content creator and a genuine attempt at revenue sharing.

With the growing expectation of online consumers to, not only post, but

also access on-demand content, there is a scramble to swallow up successful internet portals to further expand their content into yet another distribution window.

Some acquisition information for you:

October 2005: Viacom buys iFILM for \$49 million

July 2006: News Corporation buys MySpace for \$580 million

August 2006: Viacom buys AtomFilms for \$200 million

August 2006: Turner Broadcasting and ComCast invest unspecified amounts in Revver.com

October 2006: Google acquires YouTube \$1.65 billion in shares

Talk about mass media. And there is growing concern that their investment will disrupt the accessibility of this new medium. Let's use iFILM as a case study. For the purposes of this example, let's assume that you own the exclusive copyright to a production, and have errors and omissions clearances and likeness waivers so that you comply with iFILM's submission policies (and even if you don't, they have a caveat that indemnifies them from that). Submitting a production to iFILM is easy and convenient: start an

account with a unique name and some contact information, choose a file, describe it, give it some search definitions so audiences can find it, and post! Simple. Oh, and of course, click the box that reads "I ACCEPT IFILM'S Video Submission Service Agreement". If you bother to read it, this is where you would see the caveat to submission of universal licence. After a review process that likely involves a monkey in a labcoat watching your video to make sure there is no "inappropriate content", you go "live". You can then send the link to friends, colleagues, and listserves throughout the world, and you're on your way to becoming an internet star.

But at what costs?

Considering that IFILM is a wholly owned subsidiary of Viacom International Inc. (read: affiliate), your concepts, characters, plot, artwork, logos, symbols, trademarks; any of your copyright could end up in print, on TV, as a film, or on a bus-shelter near you. Viacom, and therefore, IFILM, is vertically integrated (i.e. capable of production, distribution, exhibition and promotion of any single product in a multitude of formats including: Comedy Central, Paramount Pictures, mrv, and cas.) This practice of oligopoly was cause for the Hollywood Antitrust Case of 1948 that drastically changed the exclusivity of theatre exhibition and caused decades of disruption in the Hollywood system. Incidentally, Paramount Pictures was the primary defendant in the case, and so history repeats itself to the blind eye of the public, and seemingly the courts.

Postees of online content sites are neither being duped nor tricked; they are just being exploited. The IFILM terms of use, and eerily similar terms of use on YouTube, VidiLife, Atom Films and GoogleVideo, are not buried deep within the contracts or confused with legal-speak. The effect of the lan-

The viewership is staggering: YouTube claims 100 million video views every day. IFilm has over 10 million viewers per month. MySpace has over 130 million accounts and receives over 50,000 new videos daily. Of course, we're talking quantity, not quality

guage is quite vivid: if you submit your film to us, we can do anything with it. Forever. Even worse, IFILM strips you of your moral right that safeguards your production from being used "in association with a product, service, cause or institution":

You also forever waive and relinquish all moral rights or droit moral now or hereafter recognized in connection with the video and the rights granted to IFILM and the IFILM Entities hereunder.

This article is by no means intended to be a scathing investigation of online video communities, video sharing, or of Viacom. Many of the caveats are there to give them license to turn a random online submission into streamable, searchable media within their proportions, with embedable code for your website or others. They need your permission to do all of this, because it is effectively still your copyright. As stated in YouTube's updated Terms of Use:

For clarity, you retain all of your ownership rights in your User Submissions.

The worry is that the contract is binding you to considerations that are simply not in public consideration, like giving them permission to use your

content in their web-banner ads, in print ads, or at trade shows, or posting the code so that someone else can embed your video on their site.

Perhaps the solution, as many production companies have now done, is adapt a business model that utilises YouTube, MySpace, IFILM and VidiLife to build an audience, or community by promoting their films with previews and trailers. This serves to direct some of that 10-million-viewers-per-month traffic to their own site, where their copyright protected, and non-obligated productions are available in their entirety. The trailer might be subject to the egregious contract, but the complete production is to be downloaded from their site, under their terms of agreement, should they choose to write them. That is, until someone infringes your copyright and re-posts it on Goo-Tube, or VIAFILM, or TheirSpace, or whoever, fraudulently submitting your content to yet another universal licence. Perhaps progress is regress in the digital endeavour.

Million of videos. Hundreds of millions of eyeballs. Global distribution. A channel of your own... The incentives for posting videos online are enticing, without question. The costs, when evaluated, can curb the enthusiasm pretty quickly, but in the end it is simply a question of what are you posting, and what audience are you seeking in posting it? The good news is that there is another consistent caveat in these contracts that actually indemnifies you from any and all obligations. The IFILM version reads:

You may terminate your registration and User ID, at any time and for any reason.

If you ever felt that your rights were being infringed, you could easily invoke this caveat, and be free from contractually binding universal licence. Forever. ■

NO BUSINESS LIKE SHOW BUSINESS

A little legal know-how goes a long way. Lawyer and filmmaker **Graham Peddie** gets us up to speed on intellectual property and copyright.

I have come to know many filmmakers during my time in the industry. They come in all shapes and sizes, have diverse backgrounds and are motivated by different things. But, for the most part, they all share one goal: to earn a living making films. But making a living in this industry can be tough. One of the reasons for this is that, to get ahead, you not only need to be a brilliant artist, but you also need to be a brilliant businessperson as well.

Our society has commoditized art. This is particularly true of film and television where whole industries have arisen around creating, marketing, and distributing programming. They say the currency of this industry is eyeballs, but in the end, it boils down to dollars and cents. They don't call it show business for nothing.

INTELLECTUAL PROPERTY: What you can own & what you can't

Historically, intellectual property rights developed to encourage innovation. The creative process can be costly in terms of time and money. It has long been thought that few people would invest the effort necessary to create, if they couldn't enjoy the fruits of their labour once their work was complete. The solution was to grant creators a monopoly on the exploitation of their work following its publication, for a fixed period of time.

Intellectual property rights are therefore negative rights – the right to prevent others from selling or using something you have created. At a glance, this may seem insignificant, but intellectual property rights can be extremely valuable – more valuable, even, than ownership rights in tangible property.

Consider for a moment a stack of one hundred pieces of paper on your desk. This stack of paper is worth, perhaps, a few dollars at the local office supply store. Imagine now that that same stack of paper has, printed upon it, the next *Jaws* or *Star Wars*. Suddenly that stack of paper is much more valuable. It is this value – the story and all of the creativity that went into developing it – that intellectual property rights seek to protect.

COPYRIGHT: Just the Facts

The prevailing copyright legislation in Canada is called, unsurprisingly, the *Copyright Act*. According to the Act, copyright becomes attached to certain “works” that are “fixed” and “original”. Each of these are legal terms which limit the application of copyright. Let's examine them each in turn.

A thing must qualify as a “work” in order to benefit from copyright protection. The Act describes several categories of work including literary, dramatic, musical and artistic works. These categories are fairly broadly defined and include a wide range of

things from films to books to photographs to computer programs to sculptures to audio recordings.

Additionally, a work must be “fixed”. Fixation is the requirement that an idea be expressed in some quantifiable form. Copyright protects the form of expression of an idea, not the underlying idea itself. There is no copyright in ideas! This is how Hollywood can put out *Volcano* and *Dante's Peak* out in the same year. Although the underlying ideas of each movie are identical – volcano erupts; chaos ensues! – the ideas are expressed in different ways. The scripts are unique and that's what counts. In order to better safeguard your ideas when pitching, you should commit them to paper as much as possible. A script or treatment can be protected – idle chit-chat over a beer at the local pub cannot. So be careful when you go around telling everyone your million-dollar movie idea – these ideas alone are not protected!

The final requirement for copyright protection is originality. When we talk about “originality” in a legal context, we're not really talking about something truly “new” or “novel”. What we are talking about is something originating from the author – i.e. not stolen from another's work.

Usually, the author of a work will be the first holder of copyright, but this is not always the case. Barring an agreement to the contrary, if an author creates a work during the course of their employment, it is the employer, not the

employee, who will own copyright in that work. This is crucial to understand if you are employed in a creative role at a company: If you're an employee, that software you just wrote for Microsoft or that footage you just shot for CBC doesn't belong to you!

In Canada, copyright attaches to a work automatically through the process of creation. That is to say, the copyright holder doesn't have to register their work with a central authority in order to benefit from copyright protection. Though it's not strictly necessary, you can register your work at the Copyright Office. The benefit of doing so is that the registrant will be presumed to be the legitimate copyright holder. This can be useful in a case of infringement. Whether an author registers their work or not, they should indicate that the work is copyrighted as follows: "Copyright (or ©) Bill Smith, 2006". This statement will ensure that people who see the work will know it is subject to copyright protection.

In Canada, copyright exists for the life of the author, plus 50 years. After this, the copyright expires and the work becomes part of the "public domain". Exploiting materials from the public domain can still be tricky. That musical score may have been written by J.S. Bach back in the 18th century, but I'll wager that that digital recording was performed by musicians who are alive and kicking – and whose copyright in the performance persists as well.

Just like real property, copyright can be licensed or assigned. This is a fairly complex area deserving of its own article. At this point, it is enough to say that you should carefully examine the terms of any proposed license or assignment. I was once approached by a "distributor" that requested I assign all the rights I owned in my short film to them in perpetuity – this means they wanted me to give them my film and all of my rights in it... for next to nothing! It is infuriating that these types of shady characters exist, but they are out there: Beware. Once you sign your rights away, you may not be able to get them back. ■

Graham Peddie is a Toronto-based lawyer and filmmaker. If you have any questions or comments, please feel free to direct them to graham_peddie@hotmail.com

Note that the information provided herein is general in nature and not a substitute for one-on-one legal advice. You should always discuss your individual projects with a qualified entertainment lawyer to ensure your interests are protected and you are not exposing yourself to unnecessary liability.



Shameless: The ART of Disability by Bonnie Sherr Klein (Photo Credit: Rosamond Norbury)

BONNIE SHERR KLEIN

After suffering a life-threatening stroke that left her paralyzed, award-winning filmmaker Bonnie Sherr Klein returns with her first documentary in 18 years.

In **Shameless: The ART of Disability**, Klein collaborates with four other disabled artists, challenging the obstacles and confronting the stereotypes that the disabled continue to face.

1.

Why did you decide you wanted to make this film? Was it hard to make it happen?

The film took a few years, we shot over nine months with one shoot a month. Then I had a dedicated editor who actually moved into my house — I live two hours out of Vancouver — from Monday to Thursday. The NFB had a genuine commitment to making this film. Actually, when we were researching it, we found that of the 83 films the NFB have about people with disability, none are made by a filmmaker with a disability. It's not that people without a disability can't make a film about the disabled, it's just they're on the outside looking in. We have a different voice. At the same time, the other artists, in my film are not statistically typical of Canadians with disability, where often you have a lot of poverty and they are alone. My film is a picture of what is possible, what people are able to accomplish.

2.

How much involvement did the other artists have in making the film?

I wouldn't have made it without the other artists in the film. It really helped that the responsibility for the film was diffused. They owned the film and had right of authorship. People who allow us to film them should have the right to control what we show. Some people say it limits objectivity or journalists argue it can introduce a bias, but that's how I've always worked.

3.

Was it difficult to make it happen?

Most things are more difficult when you have a disability. This film was an important experience for me. For a long time, I was just focussed on taking care of myself. Having a stroke left me with a loss of confidence in myself. And I didn't know if I wanted to make another film; filmmaking is a stressful experience. But the film got me back into a world where I was intellectually stimulated. I knew I would only do it if I had the guarantee of appropriate support before I'd take the risk. But it was good to be active again. And I don't want to dwell on the negative. In some ways, this experience was less stressful than previous films. Perhaps it has to do with perspective, being older. I have more of a sense of balance, what's important. So minor technical glitches that the crew would get annoyed over didn't bother me as much. And part of it is that it's not about my career now. I supposed I've lost the need for control, well, I should say the illusion of control. That can be good and bad!

4.

Shameless screened at Vancouver's DOXA documentary film festival last May, at the Montreal World Wide Film Festival in September and had a double screening at Toronto's DocSoup in October. What was it like to screen your film in front of an audience for the first time in so many years?

It's still familiar to me — I'm always a little nervous. You have your intentions when you make a film and you want to know if you got it right. A film isn't really finished for me until I see it with an audience. I used to spend a year travelling with my films, showing them. You want to let the dialogue continue.

5.

Was it hard to get permission to use the footage from other films — for example, the Star Trek footage?

Well, no actually we didn't get permission to use all the films we show in the film. We didn't have permission to use footage from **Star Trek**. Our lawyers stuck their necks out and we say it's fair usage. We're using it for the purposes of criticism by the media; it's a documentary and we're commenting on popular culture, the world we live in. That was something really new to me — the restrictions on filming and getting rights and permissions. We didn't used to have to do that — you know, not be able to take a shot if there's a can of Coke in the frame or watching to be aware of billboards and keeping them out of the shot. That's all new.

6. **What other changes did you notice about filmmaking? For example, did you shoot with film or video?**

Yes, we shot the film on video and that was quite different. You shoot so much! It was a change from the discipline of using film, all the thought and planning that I remember about film — that can make it stressful — that wasn't present.

7. **Why do you think Hollywood has such a hard time accurately portraying people with disabilities? Your film shows some classics — Heidi determined to help her friend in a wheelchair walk, a Klingon determined to commit suicide rather than live with his injuries. And there are recent blockbusters like *Million Dollar Baby*...**

I can't really say about Clint Eastwood, in that case it makes for a better story. But it also reveals a deeply held feeling, and fear of disability. *Million Dollar Baby* — they did that so well, even I got sucked in and it took me a while to articulate what it was that didn't sit well with me. The story becomes about what makes a life worth living.

8. **So what's next? Do you think you'll make another film?**

No, I don't think so. At this point, I'm much more interested in mentoring and advocating. But, never say never! ■

**“Of the 83 films
the NFB have made
about people with disability,
none are made
by a filmmaker with a disability.”**

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