

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 03/13/07

DEPT. WEA

HONORABLE GERALD ROSENBERG

JUDGE

RUTH MIKLOS

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

JULIE DANZO

Deputy Sheriff

SANDRA PISTER CSR #2034

Reporter

8:30 am

SC036340

Plaintiff

Counsel

FREDERIC GOLDMAN ET AL

** SEE BELOW FOR APPEARANCES

VS

Defendant

ORENTHAL JAMES SIMPSON ET AL

Counsel

C/W SC031947 VERDICT 2-10-97

NATURE OF PROCEEDINGS:

1. PLAINTIFF'S (FREDERIC GOLDMAN, AN INDIVIDUAL, AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF RONALD LYLE GOLDMAN, DECEASED) THIRD MOTION FOR ASSIGNMENT OF RIGHTS, RESTRAINING ORDER, AND TURNOVER ORDER, AND NOTICE OF MOTION TO AMEND JUDGMENT TO SHOW TRUE AND CORRECT NAME OF JUDGMENT DEBTOR UNDER CODE OF CIVIL PROCEDURE SECTION 187;
2. APPLICATION OF ABOVE-MENTIONED PLAINTIFF FOR ISSUANCE OF ORDERS DIRECTING SHERIFF TO SELL INTANGIBLES PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 699.070(a);

Matter is called for hearing with counsel for the respective parties/clients present as follows:

**

----COOK, PERKISS & LEW, P.L.C.
 BY: DAVID J. COOK (X) /
 ----MUSICK, PEELER & GARRETT, LLP
 BY: PETER T. HAVEN (X) /
 ----SOMMER & BARNARD, P.C.
 BY: JONATHAN G. POLAK (X)
 FOR: PLAINTIFF/MOVING PARTY FREDERIC GOLDMAN;

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NATURE OF PROCEEDINGS:

----LAW OFFICES OF RONALD P. SLATES

BY: RONALD P. SLATES (X) /

----YALE L. GALANTER, P.A.

BY: YALE L. GALANTER (X)

FOR:Defendant ORENTHAL JAMES SIMPSON;

----HOGAN & HARTSON, L.L.P.

BY: NEIL R. O'HANLON (X)

FOR:Third Party HARPERCOLLINS PUBLISHERS LLC;

The Court issues the following tentative ruling in this matter:

The motion for assignment of rights and restraining order is granted as to any and all monies, accounts receivable, royalty rights, and all other rights to payment in favor of Orenthal James Simpson or held in the name of any surrogate or nominee for the benefit of Mr. Simpson, his children or any third party, etc., arising from the HarperCollins Publishers agreement, dated May 8, 2006, including, but not limited to, any copyright acquired or option exercised thereunder. Plaintiff is to give notice.

In this case, the Court finds that Mr. Goldman's request for rights to payment based on anything other than the HarperCollins Publishers agreement,

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8:30 am

SC036340

Plaintiff
Counsel

FREDERIC GOLDMAN ET AL
VS
ORENTHAL JAMES SIMPSON ET AL

Defendant
Counsel

** SEE BELOW FOR
APPEARANCES

C/W SC031947 VERDICT 2-10-97

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dated May 8, 2006, is speculative and overbroad. This includes, but is not limited to, the request for rights to payment based upon the publication of "any" book, production of "any" movie, television show or other form of broadcasting other than the "project" contemplated by the May 2006 agreement. The moving papers do not state any authority to show that the Court can enter a blanket order assigning any and all rights to payment based on future uncertain and unidentifiable conduct. While assignable "right to payment" may be contingent on future developments, the Court finds that there must be some identifiable right to payment or business relationship with a reasonable expectation for payments of money to Mr. Simpson. As argued by plaintiff in the reply, broad language was used by the court in H.S. Mann:

"Monies to be earned under an existing contract have long been held assignable at law; in the absence of an existing contract the question of assignability of potential earnings or other receivables is generally considered one for equity, which supplements and corrects the inadequacies of the common law. Indeed this process has proceeded in this state to the point where the difference between law and equity vanishes for practical purposes so far as concerns the subject in hand. [Citation omitted.] The California cases relating to contingent results of existing contracts do not

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refer to such distinction and they state the rule as a general one that equity will uphold assignments, not valid at law, of any future interest, as a rule applying alike to those which are vested, but relate to property to come into existence in the future, and those which rest only in possibility, provided they are fairly made and not against public policy.' [Citation omitted.]" (H. S. Mann Corp. v. Moody (1956)144 Cal.App.2d 310, 318.)

However, the H.S. Mann court's analysis was based upon a finding that the parties had an established business relationship and method of doing business which afforded a basis for expectation that it would continue indefinitely and the receivables which were to grow out of it had sufficient substantiality to be recognized as being assignable. (Id., at pp. 318-319.) As such, plaintiff's request for an assignment of any and all rights to payment of money arising out of any activity of Mr. Simpson, without identifying an existing contract or business relationship with a reasonable expectation of future payment is denied.

The motion is granted as to any and all payments due to Mr. Simpson, or held in the name of any surrogate or nominee for the benefit of Mr. Simpson, his children or any third party, etc., arising from the HarperCollins Publishers Agreement dated May 8, 2006. This includes any copyright

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acquired or option exercised pursuant to the terms of the agreement. By stipulation dated February 26, 2007, the parties agree that the copy of the Agreement attached to Mr. Goldman's motion(s) is true, correct, authentic and genuine. Since the evidentiary issue previously preventing this Court from issuing the assignment order and restraining order has been resolved, the motion is granted as set forth above.

Counsel state they have read the Court's Tentative Ruling in this matter.

The Court hears Oral Argument.

Off the record, the Court and counsel confer in Chambers.

On the record, the Court states that in Chambers it did have the opportunity to discuss with all counsel numerous items in this matter.

The Court further makes the following Orders:

1. Plaintiff's Third Motion for Assignment of Rights, Restraining Order, and Turnover Order STANDS SUBMITTED. With respect to Plaintiff's request to Amend Judgment to Reflect True and Correct Name of Judgment Debtor is DENIED.

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Counsel

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NATURE OF PROCEEDINGS:

2. Plaintiff's Application for Orders Directing Sheriff to sell intangibles pursuant to Code of Civil Procedure Section 699.070(a) is GRANTED as follows: It is Ordered that pursuant to Code of Civil Procedure Section 701.530 that the Sacramento County Sheriff shall sell all right, title and interest of ORENTHAL JAMES SIMPOSON in and to that certain contract dated 05/08/06 by and between Lorraine Brooke Associates, Inc. and HarperCollins Publishers, Inc., and all rights therein. It is further Ordered that any proceeds thereof, absent the filing and prosecution of a Third Party Claim, shall be payable to the order of the Plaintiff care of counsel for the Plaintiff. Order is signed and filed. A Certified copy is provided to Mr. Cook.

With respect to the sell of all right, title and interest of ORENTHAL JAMES SIMPSON and LORRAINE BROOKE ASSOCIATES, INC., that request STANDS SUBMITTED.

In addition, pursuant to Oral Request and Representation by Neil R. O'Hanlon, counsel for Third Party HARPERCOLINS PUBLISHERS LLC, that all documents requested have been produced, the Motion filed on behalf of said Third Party (HARPERCOLLINS PUBLISHERS LLC) to Quash Subpoena,

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Plaintiff
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currently scheduled on March 20, 2007 is advanced to this date and VACATED. If there is any dispute, counsel may return on ex parte basis to address said issue.

Additionally, pursuant to an agreement and approval of the Court, the Plaintiff's Motion Re Assignment of Rights re Credit Line concerning Washington Mutual of April 18, 2007 is advanced to this date and further CONTINUED to MAY 08, 2007 at 8:30 a.m. in this Department (West-A) to be heard together with Defendant's Motion to Vacate and Renew Judgment, and Plaintiff's Fourth Motion for Assignment of Rights and Restraining Order re Sport Memorabilia.

Mr. Cook is to file said (Fourth) Motion and give proper notice to opposing counsel. Facsimile service is permitted.

LATER SAME DAY, OFF THE RECORD, AND OUT OF THE PRESENCE OF COUNSEL:

The Court rules on the above-mentioned submitted issues as follows:

- Plaintiff's Application for Issuance of Order Directing Sheriff to Sell Intangibles pursuant to Code of Civil Procedure Section 699.070(a) with respect to all right, title and interest of

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NATURE OF PROCEEDINGS:

ORENTHAL JAMES SIMPSON and LORRAINE BROOKE ASSOCIATES INC., is GRANTED.

It is further Ordered pursuant to Code of Civil Procedure Section 701.530 that the Sacramento County Sheriff shall sell all right, title and interest of ORENTHAL JAMES SIMPSON and LORRAINE BROOKE ASSOCIATES INC. in and that certain contract dated 05/08/06 by and between Lorraine Brooke Associates, Inc. and HarperCollins Publishers, Inc., and all rights therein.

It is further Ordered that any proceeds thereof, absent the filing and prosecution of a Third Party Claim, shall be payable to the order of the Plaintiff care of counsel for the Plaintiff.

-With respect to Plaintiff's Third Motion for Assignment Order and Restraining Order, the Court stands by its ruling and GRANTS said Motion for the reason set forth above.

Orders are signed and filed. David J. Cook, counsel for Plaintiff/Moving party is directed to give notice to all interested parties. Conform copies are sent to each counsel appearing this date.

CLERK'S CERTIFICATE OF MAILING/
NOTICE OF ENTRY OF ORDER

I, the below named Executive Officer/Clerk of the

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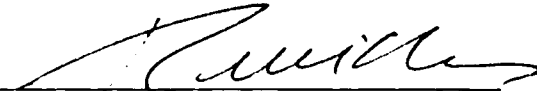
NATURE OF PROCEEDINGS:

above-entitled court, do hereby certify that I am not a party to the cause herein, and that this date I served Notice of Entry of the above minute order of 03/13/07 upon each party or counsel named below by depositing in the United States mail at the courthouse in Santa Monica, California, one copy of the original entered herein in a separate sealed envelope for each, addressed as shown below with the postage thereon fully prepaid.

Date: March 13, 2007

John A. Clarke, Executive Officer/Clerk

By: R. MIKLOS



-DAVID J. COOK
Attorney at Law (for Plaintiff)
COOK, PERKISS & LEW, P.L.C.
333 Pine Street, Suite 300
San Francisco, California 94104-3381

-PETER T. HAVEN
Attorney at Law (for Plaintiff)
MUSICK, PEELER & GARRETT, LLP
One Wilshire Boulevard, Suite 2000
Los Angeles, California 90017-3383

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NATURE OF PROCEEDINGS:

-JONATHAN G. POLAK
Attorney at Law (for Plaintiff)
SOMMER & BARNARD P.C.
One Indiana Square, Suite 3500
Indianapolis, Indiana 46204

-RONALD P. SLATES
Attorney at Law (for Defendant)
LAW OFFICES OF RONALD P. SLATES
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Los Angeles, California 90014-1225

-YALE L. GALANTER
Attorney at Law (for Defendant)
YALE L. GALANTER, P.A.
2800 Biscayne Boulevard
Miami, Florida 33137

-NEIL R. O'HANLON
Attorney at Law (for 3rd.Party harperCollins Publish)
HOGAN & HARTSON
1999 Avenue of the Stars, Suite 1400
Los Angeles, California 90067