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[Sean] Thank you for coming to our opening keynote event.

How do writers get paid in today's digital world? How does the continued emergence of digital dissemination affect a writer's ability to control the rights of their work? Evidence suggests that the pandemic has pushed book sales up by 5%. Are writers now expected to be performers at zoom launches for their books? What might all of this mean for the future of contracts and writers in Canada?

I'm very pleased to be joined today by three excellent and informative and smart and experienced people.

Dina Del Bucchia is a writer, podcaster, literary event host, editor, and creative writing instructor. You can find out more about Dina at dinadelbucchia.com. Dina, thanks for being here with us.

[Dina] Hi, it's great to be here.

[Sean] Also, we are joined by Shelley Youngblut. CEO and creative ringleader of Wordfest located in Calgary, Alberta. Shelley and her team do some of the best literary programming around and that includes events with some of the who's who of the literary world. Find out more at wordfest.com and Shelley, welcome.

[Shelley] Thank you.

[Sean] And of course we have Martha Rans. Martha is CEO, legal director, and creative visionary of Pacific Legal Education and Outreach. Martha has been working as a lawyer with artists and creators for many years including many writers and literary organizations. Thank you for joining us.

Okay. Dina, you've published a bunch of books during the digital revolution. And also been a writer and event coordinator during the Covid scenario, for lack of a better word. What do you see as the biggest challenges that writers have had to face in the recent past but specifically in the last 18 months?

[Dina] Thank you Sean and thanks everyone for being here.

I've written a bunch of books so obviously I'm an expert on everything. No, that's not true.

Being a part of the writing community and what I've experienced myself and spoken to other writers, one of the biggest challenges lately, I would say, it's how we're feeling and how that's affecting how we work. From very severe depression to a more general malaise, I think that's

part of it and how we're trying to find the energy, strength, to keep moving is one of the toughest parts. It really feels like you're more isolated than ever. Writers talk about that a lot, about how we do most of our work alone and this is pushing it further into that space. I was almost going to swear, but I'm going to keep it PG for this panel. It sucks.

That, for me, is the biggest challenge. I know there are tangible things that can be done about it but it's really tough to find access to what those tangible things might be if you don't have the resources, the support or the ability to ask for things and receive them. And writers who are accustomed to rejection don't think that.

[Sean] Fair enough. Part of pivoting to digital is adaptation. How does an art form that is based in three dimensions; in books and bookstores and meeting your audience physically, signing your books, do that?

Shelley, in your line of work, working with Wordfest and being the creative ringleader there, adaptation has been a big part of your work. Has the pandemic accelerated that change? How has that affected your work?

[Shelley] Thanks to all of you for being here for this.

It's a timely and important conversation we're having because everything is changing. No one knows anything and it has definitely just gotten so much faster. I like innovation. I like the idea that you move with the times. You move with the audiences. We're very audience focused.

Our role has been between the book being written and the book being read, we're that exclamation point in the middle that draws the writer and reader together. We don't create or publish the books, nor do we sell the books. We highlight the connection between writer and reader.

For us, we've been trying in every way that we have in our toolbox to make literary events exciting, accessible, and create that idea that if you weren't in the room, you missed something really special. The book is the T-shirt that you leave with to remember this incredible moment in time.

When the pandemic hit, we couldn't do that anymore. We became broadcasters. How can we make this Zoom environment just as potent and intimate?

[Sean] Monetization is a word people enjoy using. Part of the formula, I'm sure for many festivals, is gate receipts and that folks are paying to be in the room at the time. How have you managed that and how has the relationship with writers or publishers changed as a result of having to go digital first?

[Shelley] Okay. We made a decision that we were going to charge admission. We always had a certain portion of our live events that we would open up so economics wouldn't be a barrier. But for the most part we saw value. We actually did very well at the box office.

Then with the pandemic, all of that money went away. You're creating a different experience and having to bring audiences into it. What we had was government funding. We made the decision we would put all of that funding into artist fees. We made our role in the pandemic to make sure as many Canadian artists as possible got paid. We've been able to do that because we're not live programming.

My biggest fear right now is 2022, when we will have a live programming stream that is funded by public funding, by foundations and ideally by box office. But my fear is what do we do about those online opportunities? Our online opportunities are things that we could never do live. We have had speakers that we were never going to get to come to Calgary. We think there's a way to compliment the live stream. We are looking for a way to monetize it, not to make money, we're an arts non-profit but we're also an entrepreneurial arts non-profit. We want to create something exciting that you shouldn't think you have to do this but you want to do this because you want to embrace curiosity in the literary arts.

[Sean] For you Dina, curating and planning, what has changed? What are the opportunities? What are the conversations that you've had with writers when you ask them to be a part of something that's virtual?

[Dina] Lots of writers are excited to be a part of our events that otherwise wouldn't be able to participate. Those conversations are great and fun and people that can't travel or have child care, that they might not be able to take care of if they couldn't do the event virtually. For those writers, these conversations have been great because they can share their work in a way they were not able to before.

Otherwise the communication for writers hasn't changed a lot, we have been doing this for a while, we have our systems that we use. Our templates to invite authors to get them to participate in writer series events, what's changed is that every time, and I think all event organizers are learning this, you're adding something new to your template for your emails because you discover new problems.

We're in this phase of when you are producing live events and have been doing so for years, you've been able to iron out the kinks. So now we're continually ironing out the kinks of digital programming. Asking questions about their own access. What is their internet connection like? What things are not available to them that will make their experience easier?

People live in the same spaces where they are doing their events. Events are part of their daily life not because they go out to them but because they come into their space. Thinking about that stuff as well. We've had authors that were in the middle of moving while reading at events. Or kids coming into the room. These are things that people before would think that's

unprofessional. In late capitalism, we're expected to work all the time and that's something that comes along with it.

[Sean] Yeah. Working all the time and spending your free time on Zoom. One question for you, as a writer, how do you feel about the idea of you performing or reading your work at an event like this or at a launch and the notion of that video existing in perpetuity on YouTube or whatever?

[Dina] I think for me, as a person who has done other work, I have made book trailers and I have a podcast, so for me it's something I have a knowledge and understanding of. I'm going to gear what I say, the reading, all of those things to that. I don't feel bad that it's going to exist afterwards.

Like, this is being recorded but I don't know if we were told beforehand that this is being recorded. This is a particular situation, where we're recording, you need to be saying we're recording this and it could be used again for this, this, this, and this. Writers do get concerned that their work is going to be taken from them and used from them. Having that stuff available collectively as organizers is something that is really great. This is a new situation. We need to understand what that means.

I personally am very cool with it. I love attention and I want people to see me being awesome all the time. Not all writers are like that. A lot of writers are shy or nervous. The concept of performing is stressful for them. We need to take care with that part of digital programming. For a legal angle just to make sure we have consent, we have permission from people to use their work if they're going to be using it in another form. For me as an artist and a person that doesn't want to infringe on other people's work; courtesy, kindness, and just best practice.

[Sean] Love it. That's beautiful. Martha, what are your thoughts on this particular issue?

[Martha] I think it goes well beyond courtesy and kindness, with all due respect. We have to challenge the idea of perpetuity. The reality is that the writer may be willing to have their work performed and streamed in some fashion. They may not afterwards like the stream. There could be sound issues or any number of other reasons why they would prefer not to have the content made available in perpetuity. It requires all presenters to think about what they are doing and to rethink all of the old ways of doing things.

Why would we ask someone to do something in perpetuity anyway? Most releases that I've seen use language like "in perpetuity". Writers sign contracts today in perpetuity as if there's a physical object rather than a digital file that is printed on demand and made into and published.

It's a very strange world that on the one hand we're used to everything changing constantly. And some of the choices that have been made around contracts and business conditions haven't changed nearly enough. Because I think now we need to give everybody the flexibility

to be able to maybe you stream something now and you don't make it available as a monetized stream until the writer has seen it and said "okay, you can do it for this."

Also, as opposed to automatically doing that and simply putting something up, particularly where in some circumstances a writer may be reading from work that is not yet published. That might pose an issue.

I think the perpetuity issue is a concern. I would like us to move away from trying to own everything forever. Trying to open doors in the movie land and film world to different ways of distributing content also so that people like Shelley can have an opportunity to do what you're doing with the subscription service and invest the money and know that you have exclusivity. I don't know maybe that exclusivity is for a limited period.

[Dina] That's really interesting because I've gone to some online events, more comedy based things, where when you buy your ticket if you are unable to watch at the time of streaming you have up to 24 hours to watch. That also sets up a contract not just between the artist and whoever is producing the event but the audience. So an audience gets to have the understanding of what the relationship is they get to have with the work and how long they get to have that relationship. The expectation isn't that they have it forever.

[Martha] And that they might have an opportunity to come back to some other event with the author at a later date. It's to share the wealth. It opens up possibilities to have book tours without having to leave home.

[Shelley] This is really interesting. We've been thinking a lot about this. We do not ask writers to read. This is conversation based. Think of it more like an interview on CBC Q. We're giving an author an hour-long showcase, professionally produced. That's the other part of this, we make sure that the sound quality is first class, we make sure that we do pre-event tech checks, we really are looking at this as a professional experience. We're just a very small team of people but we want to do the best we can by the writer.

We try to stay away from the idea that we're in any way profiting from work. Our job is to sell the work and to sell the author to their audiences. We're kind of a middle man there. I want to make it really clear, if an author says they don't want the work posted, we don't post it. There is always that flexibility of opting out. It should be a co-creation. We're co-creating this environment together. We supply what we can, so the author doesn't have to and the publisher doesn't have to.

Our subscription is \$26. We make no money, but we have to charge something so we start to establish what is a decent price that people might be willing to pay. But 26 bucks for a year, it's not that much money. We don't know after a year of experimentation, which is what 2022 will be, what the landscape will look like. At which point, we've been talking to agents, we've been talking to writers, audiences, publishers, we'll bring that information back. We can all then have an informed conversation and figure out best practices.

The thing that's key about all the people you're seeing on your screen and the audience that want to be part of the arts, we're in this for the long haul. This is a small community, if you develop a bad reputation, you won't last. If you develop the idea that you're there as a predator, you don't deserve to last.

I don't know what the answer is right now. We have to try it and see where we wind up. Eliminate the obvious things. For a poet or performance artist or a spoken word artist, their work is the performance, they should get paid every time they perform. But I can help promote to a larger audience the conversation that informs that performance.

[Sean] John Degen mentioned in the comment thread that the union is seeing these distressing terms and practices including the waiving of moral rights and perpetual term, exclusive rights demanded, damaging the writer's future success or longer term work. Martha, have you seen those same things in your practice?

[Martha] I am a complainer of moral rights waivers, there's only one place where they are marginally appropriate and that's the film business. But for an event like the one we are describing, under no circumstances should anyone be required to sign a waiver.

I think that for every writer and every artist, the money is not the issue, it's the relationship with the audience and the control over the work. Those are both critical parts of what makes up actually a good relationship so you don't ever need -- you don't need to worry as much about a contract when you have a good relationship and good relationships are based on clear expressions of respect and not requiring often these provisions like the ones John described often come out of boiler plates that have no place in this environment whatsoever.

You don't need, and I do see film templates used quite a bit in this space right now because for whatever reasons some of the people that could have been producing template language haven't figured out themselves how to do this because it often involves other rights holders. Meaning that, in the music world it was used to deal with SOCAN, well, suddenly you've got to deal directly with other rights holders you can't rely directly on the license for the music in the room. That presents a lot of challenges like, Dina, you described for small presenters.

I think that we're living -- I wanted to respond to what you were saying Shelley just to tell you about an event we're doing in June. It's going to be the Pivoting to Digital: the Music Edition. Two colleagues in Toronto have created an online school as a way to address precisely what you've just described. I think that over the course of this series we may see some interesting parallels that we can also draw from to perhaps create some of those best practices that we're all striving for. Maybe we can come back together in the fall with a discussion around the various best practices that we worked out.

We have created a template right now. It's intended for music festivals. It's been amended for dance. I haven't gotten to the literary one yet. The idea is we'll explore language around

exclusivity, non-exclusivity, the idea of a window. The idea that you don't need this forever. And something that is going to concern people is afterwards they may think differently when they see the final product knowing it's being made available at all.

Even the most open everything advocate, Brewster Kahle -- if he is ever asked to take something down, he just takes it down. He is an expressive copyright minimalist. He has never left something up where a writer has requested it to come down. Ever.

[Sean] I want us to push a little bit further. I'm a bookseller, I've been an independent bookseller for most of my life, I know Dina is a bookseller as well. One of the things that happens when you work as a bookseller is you get to see the inside of how the sausage is made and sometimes it's not great.

One of the things we mentioned earlier is print on demand technology, a digital file suddenly prints a physical book. Which brings me to something I've talked to Martha about many times which is the notion of reversion of rights. Can you just comment on what that means and why it's important?

[Martha] Actually, maybe this is a good point for Dina to tell the story of the Insomniac Press.

[Dina] I can quickly cover it. Here are the Coles Notes of what happened to me in publishing. And lots of writers have a similar story, this is not unique to me. I published a book in 2014 and I received a very small advance. The book was late initially, and that was just one of those things where you are like well books are late, independent publishing is tough. It came out and two months after the book came out was the last time I ever heard from my publisher again in the history of hearing back from a publisher. I tried to make contact a few times, and then I was like is it worth my time? Like this year do you know how much I made from poetry? I got a check for 8 dollars and 93 cents. So I was like is it worth it for 8 dollars and 93 cents? Earlier this year there was actually proper journalism surrounding the exit of the new editor that was taken on last year and the books that were supposed to come out this spring, which were all cancelled because the editor came forward and said that there's no feasible way for us to produce these books. It hasn't been fully explored, there seem to be other people in a similar situation who were never given their royalty statements let alone their royalty checks. It's very clouded in mystery. This whole time, my advance was two hundred dollars, so I guarantee I earned that out and so that's where we're at.

[Martha] The reason I asked you to tell the story is because it's a common story. Publishing work is a risky business at the best of times, small press especially. The reality is that when a company is insolvent it's not like you're told unless there's a monitor appointed and you're advised you may never know that the company went out of business. You may not know that the company was sold to another company which is an issue that comes up. In the case of the Disney situation, a bunch of authors who had their work used by Disney, where various companies were sold and so they've been collecting royalties from all these films but they

haven't been distributing it because those are liabilities that they say they were not responsible for.

A major Canadian press, it was out here, it was on the west coast. Some of the catalog went over there and those guys were fine but everybody else was like "where is my stuff?" This is why I look for the first provision in a contract. Well, maybe not the first, the first is usually the copyright. I like to see a reversion rights provision upon insolvency or other particular things happening. For example, not getting royalty statements over a successive period of time such that you could argue that the contract has been frustrated at some level. Then the writer has the rights to revert to them.

Reversion rights are really important. Where you don't see reversion is where the books have gone out of print. But in a non-demand environment, books don't go out of print. One writer that was working with a publisher out here, she was in Quebec, and wasn't getting royalty statements. She figured out that the book was no longer being sold by this publisher, and had the opportunity to have it published elsewhere, but was effectively being prevented from doing that because the new publisher would not do it without having a reversion of her rights back from the original publisher and that agreement was 15 years old. It took us finding her a pro bono lawyer to send a nasty letter with a big firm letterhead, because they had sent letters. It was only when they got the big boys involved and that threat of litigation might have been real, that she was able to finally get the rights back. That also speaks to the notion of perpetuity which still permeates the book business. That's the long answer to your short question.

[Sean] Thank you. That gets back to the notion of getting books into people's hands. Shelley said that the important thing is to sell the books, that getting books into people's hands as a result of conversations you have with them is important. Also that people are attending your events and experiencing those interviews from far away. I'm sure your analytics tell a story. So do you have a bookseller? Have you thought about what the future of that looks like?

[Shelley] I'm dying to talk to you about this. We're big supporters of independent booksellers. They know the audiences and know the authors. It's about community. It's easy at a festival, we would sell out our spaces 140 to 680 seats, 95% of people who bought a ticket showed up, 50% of those people bought a book full price. It worked. That all went away online. I'm working right now on trying to talk to the independent sellers and see if we can establish a network so we have somebodies in each region who are affiliated with each of the events and that we direct our audience to them. We are embedding it in our website. I want to work with the Canada Book Fund. I have worked with Indigo on books and ticket events, shipping is a real challenge, working with a major retailer is a real challenge because they are too big to care to the extent that we do. I know that they want to but there's a caring gap and an immediate solution gap that is a problem for someone like us who wants to solve things and make sure that that connection doesn't get broken. It's the missing piece in the digital space. If it's working, the author gets the royalties. It should work. They're buying lots of the T-shirts. It isn't there yet digitally.

[Sean] We have readers right across the country who buy books at their independent shop who would love to support that. I think you're onto something there.

[Shelley] We are trying everything, I'm talking to Martha Sharpe at Flying Books right now. All of us have to co- create and come together and figure it out on all different levels. If we are off in our worlds doing things, we do it well, but they are big enough. We need that impact as cumulative knowledge and cumulative numbers and then go back to some of the funders and get cumulative funding.

[Dina] We talked about getting other writers. A lot of the writers we work with are published by independent presses. Being able to actually reach out, I'm from a small town, I really value trying to cultivate the arts in those areas and bookstores were definitely a big deal for me. So being able to reach outside of these urban centers that we know people know there are other independent book stores here. We've had writers in the last year that are from small areas that would not be able to travel here and there are bookstores and booksellers near them that would love and appreciate support. That part too is really crucial.

[Shelley] I want to add one more thing that's really important is that the independent bookstores need to have the same Canada Post mailing opportunities that other places do. They are paying full freight right now. That's a barrier. We track all library holds for any author, before we announce an event, the week before the event, the day of the event and a month after the event so we can show that there is a cumulative effect of attention paid and showcases of an author. We're trying to figure out for 2022 how to take big authors to smaller places and actually film it and turn it into programming and distribute to larger audiences. Turning the whole digital live thing on its head and go the other way. We do small outreach that becomes broadcast in the world. If we can figure out how to stay alive in 2022.

[Sean] We are approaching the end point. I wanted to thank everybody again for being with us. We have a question from Hayley from earlier on in the thread. How can a “starving artist” protect intellectual property rights on an ongoing basis? Has the law really caught up with analogue versus digital, intuitively it seems like the average artist can't make a living? Is it different in different provinces?

[Martha] There's a lot of questions actually in that one series of questions. There's a lot of possible answers. The question about artists making a living is the elephant in every room. I'm very conscious of that. That's why the copyright minimalists call me a maximalist and the copyright maximalists call me a minimalist. I think we have not kept pace with digital developments, we are using outdated terminology and contracts and so on.

I think we have a tremendous opportunity oddly at this moment to really start shifting the paradigm under a lot of artwork including writing and all literary work is re-understood in its role and how it's distributed and consumed, at some level it will be audiences who shift that the most. The reason why we are a National Network of Legal Clinics for the Arts is to provide some

infrastructure to make it easier for an individual, for any writer to actually have that first contract reviewed by a lawyer so they understand and are educated about what the darn things mean.

Frankly, the language in these contracts, even in the ones I might work on as part of this project, there's still going to be language they don't understand, it's up to us to explain it. Our lawyers are going to be the ones who educate about this, this is what reversion is, this is what copyright is. We don't talk about intellectual property rights, I think it was ten years ago I said "if you're looking at a contract that refers to intellectual property rights and it doesn't say copyright, you are not looking at a contract that was drafted from the point of view of publishing a book in today's world." If you don't understand what I'm talking about and you happen to be in BC come to the [Artists' Legal Outreach](#) website, hopefully by us working together, we can better respond to the needs of writers and small publishers. A lot of the small presses are started by passionate people. These are all people who love the written word, no one wants to see them, it's an ecosystem.

That's the hope of the project is that we'll start to get more things explained, more events that will share information, and also expose you to the possibility that coming soon in Winnipeg will be a clinic run by the University of Manitoba which is hopefully adding artists and arts organizations to their mix very soon. We've seen the expansion of services within the first few months of this project, I encourage you to come to us or seek one of us out, so that we can hopefully, at least ensure that no starving artist goes to sleep without actually perhaps, they might have a few nightmares after reading the contract, but at least they understand it. And I would hope, be able to negotiate a better outcome. That's also the important thing to remember for writers listening is that we really just want to hear what you need. If you can't say it, they won't know it. That's a big part also of what you will learn when you get an opportunity to speak to someone like me or many of my colleagues, is we'll help you to figure out how to ask for, "does it have to be in perpetuity?" or to refuse and say that's just not done in this environment.

[Dina] I wanted to comment on the idea of the starving artist. I have all these jobs and I've been doing this work with the Real Vancouver Writers' Series and starting things from the ground up, it's really difficult, this is the first year that I'm being paid to do this job. Having to do other work and manage all these other things, makes it difficult as an organizer for the writer you're supposed to be supporting if you yourself are not supported. It's a big problem. I'm sure there's lots of the people in the chat here attending today that are paid fairly for their work and people that aren't. Yes, I'm doing this work and a lot of it I'm not properly compensated for because it's difficult to build these networks and systems. We have ideas about what people do for a living and what that looks like outside of this is really important. It's tough. I want to see more money to go to writers. It's tough to do this work and know that other people are doing similar jobs and getting paid more than me. We have to get the important work done first before we have the time to work with Martha and access resources. Looking at that too as a building block for everything. Thanks.

[Sean] Thank you. We're right up at the top of the hour. I feel like this is a good spot. I want to give a shout out to a recent person who joined us on the PLEO team, River Shannon.

[River] Hi, this is pretty exciting.

[Sean] River, what have we tasked you with here? How are you going to help?

[River] I'm going to help Martha get a clinic up and running so we can offer this empowerment and support. I have so many artist friends including my partner saying "oh, my goodness we need this, please." I'm so delighted to have the opportunity to support Martha.

[Sean] Welcome to the team.

[Martha] We're absolutely thrilled to be able to be the first place in Canada where we have hired a full time staff lawyer, which is pretty incredible. I'm excited to have the opportunity to nurture the next generation of legal minds to support the sector. Thanks everyone for joining us. Thanks Sean for being who you are and Shelley and Dina who we finally managed to get onto something. Thank you all for joining us today.