

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

JOHN PERRY,

Plaintiff,

-vs-

HARPERCOLLINS CHRISTIAN
PUBLISHING, INC.,

Defendant.

)
)
)
)
)
) Case No. _____
)
) JURY DEMAND
)
)
)
)
)

COMPLAINT

I.
INTRODUCTION

1. John Perry, a celebrated author and biographer, was commissioned by Thomas Nelson, Inc. to write a book titled, *Through My Father's Eyes*, chronicling the life of the late world evangelist Billy Graham as seen through the eyes of his son, Franklin Graham. After the work was completed, Thomas Nelson (now wholly-owned by the Defendant HarperCollins Christian Publishing, Inc.) renege(d) on its promise to pay to Mr. Perry future royalties on the sale of this book. Mr. Perry now brings this action against Thomas Nelson, Inc. for compensatory damages arising out of its willful, anticipatory breach of contract and declaratory judgment.

II.
JURISDICTION

2. This court is vested with jurisdiction pursuant to 28 U.S.C. § 1331, based on the diversity of citizenship of the parties, and the amount in controversy exceeds \$75,000.

3. Venue is proper in the Middle District of Tennessee since all of the actions

alleged took place in this federal district.

III. PARTIES

4. John Perry is an accomplished author who has written over 30 books, including *Sergeant Alvin York*, *Unshakable Faith*, *Lady of Arlington*, and *Lee- A Life of Virtue*. One of his most recent books, *Letters to God*, was listed on the 2010 New York Times Best Seller List. He resides in the State of Tennessee.

5. HarperCollins Christian Publishing, Inc., (hereinafter "HarperCollins"), is a foreign corporation, and has its principal corporate offices at 1211 Avenue of the Americas, New York, New York 10036. Its registered agent for service of process is Troy Edens, 501 Nelson Place, Nashville, Davidson County, Tennessee 37214.

IV. FACTS

6. Franklin Graham is the eldest son of the late, noted evangelist Billy Graham. He is the President and CEO of a world-wide ministry called Samaritan's Purse, headquartered in Boone, North Carolina. He also serves as an evangelist for a separate ministry and organization founded by his father called the Billy Graham Evangelistic Association ("BGEA").

7. In late 2005 or early 2006, John Perry received a telephone call from a representative of Franklin Graham, inquiring whether he would be willing to serve as a full-time, in-house ghostwriter for Franklin Graham.

8. Soon afterward, in late winter or early spring of 2006, Mr. Perry traveled to the headquarters of the Billy Graham Evangelistic Association in Charlotte, North Carolina, for an interview.

9. During his interview, Franklin Graham's representative explained the expectations of the job, and also shared with Mr. Perry that the two ministries, BGEA and Samaritan's Purse, were in the process of merging. She mentioned also that there was some concern that as a result of the merger of these two non-profit organizations, some of the donors who had given to both organizations over the years would now make only a single donation to one of the ministries.

10. Mr. Perry came up with an idea for Franklin Graham to write his father's biography from Franklin's own unique perspective, to be published after Billy Graham's death. Mr. Perry suggested how such a biography could tie the two organizations together in a powerful way, form a new and special connection between father and son, and would produce a book that both BGEA and Samaritan's Purse could then market. During his interview, Mr. Perry learned that the two organizations had a combined mailing list of 7 million individuals. This audience, when combined with the estimated 15 million Southern Baptists, tens of millions of American evangelicals, and millions more throughout the world affected by the life and preaching of Billy Graham, produced a sizeable potential market for such a book.

11. Mr. Perry elected not to pursue a position with Billy Graham Evangelistic Association, but he did later speak with his interviewer by telephone and mentioned his idea for the biography on the life of Billy Graham. The interviewer gave him the name of another representative within the Franklin Graham organization, and told him that he could discuss his book proposal with him. Mr. Perry followed up and sent a letter to this contact about this book proposal. The contact person responded with what appeared to be

a type of form letter thanking Mr. Perry for the proposal, but expressing disinterest at that time in such an undertaking.

12. During this time period in 2006, Mr. Perry was writing a book for Thomas Nelson entitled *God Behind Bars*, based on the story of Charles Colson's Prison Fellowship ministry. He shared his idea for the Graham biography with executives at Thomas Nelson, and the concept was well received, and the parties discussed a tentative agreement for Mr. Perry to write this manuscript.

13. Mr. Perry was later informed that Jonathan Merkh and Sam Moore (executives of Thomas Nelson) had pitched his idea for this biography to Franklin Graham, and that Mr. Graham enthusiastically endorsed it.

14. In mid-summer of 2006, Mr. Perry received a call from a representative of Thomas Nelson, announcing that they had a book deal with Franklin Graham based on Mr. Perry's idea. Thomas Nelson offered to hire Mr. Perry to write the book.

15. The offer by Thomas Nelson consisted of a writing fee in the amount of \$100,000, plus two royalty points on the book, including any spinoff versions and editions. Mr. Perry was advised that a "cover credit was off the table." Franklin Graham did not want to share credit with him as a ghostwriter. Mr. Perry accepted Thomas Nelson's offer.

16. On October 27, 2006, the parties entered into an Independent Contractor agreement that set forth the terms of the book contract for *Through My Father's Eyes*. A true and correct copy of this contract signed by John Perry and Jonathan Merkh, Senior Vice President and Publisher on behalf of Thomas Nelson, is attached hereto as Exhibit A and is incorporated herein by reference.

17. The compensation terms under this Independent Contractor agreement provided as follows:

5. Compensation. For the satisfactory completion of all Services to be performed by Contractor under this Agreement, Publisher shall pay a total of One Hundred Thousand Dollars (\$100,000.00). Payment will be made as follows:

Fifty Thousand Dollars (\$50,000.00) paid within ten (10) days of Publisher's receipt of a signed Letter of Intent from Writer; and

Fifty Thousand Dollars (\$50,000.00) within thirty (30) days of receipt of a fully signed Manuscript Verification Form acknowledging that the manuscript is in acceptable form by Author and Publisher.

5.1 In addition to the above compensation, Publisher agrees to pay to Contractor a two percent (2%) royalty based on Publisher's net sales of the Work sold in any market or in any format including all possible variations mentioned in the contract Publisher has with Author.

5.2 Publisher will reimburse Writer for travel related to the preparation of a fully acceptable manuscript. Such travel must be pre-approved or arranged by Publisher. Reimbursement shall be made within thirty (30) days of Publisher's receipt of approved invoices. Invoices not to be submitted more frequently than once a month.

Exhibit A at ¶ 5.

18. In addition, the contract provided the following right and opportunity to Mr. Perry, as the Contractor, to cure any portion of the manuscript that Thomas Nelson, as Publisher, found objectionable.

Publisher may terminate this Agreement if Contractor fails to provide the Services and deliver the completed work by the time specified in Paragraph 2, excepting acts of God, or if Publisher determines, in its sole discretion, that all or a portion of the Work is not satisfactory after Contractor has had an opportunity and thirty (30) days to remedy specifically identified writing in need of modification.

Exhibit A at ¶ 12.

19. Very shortly after the original contract was signed, Mr. Perry traveled with Franklin Graham and some of his board members to an event in Quito, Ecuador. In early

2007, he also traveled with Mr. Graham and his entourage to a similar event in Winnipeg, Canada. The Plaintiff took notes along the way, and conducted several interviews with Mr. Graham during these visits for later use in writing the biography.

20. During this time frame in 2007, Mr. Perry formed a working relationship with Franklin Graham. He regularly sent sections of the rough manuscript to him, solicited his review and comment, and asked his staff for specific information. In all of his meetings and conversations with Franklin Graham, Mr. Graham expressed nothing but praise and encouraging comments about Mr. Perry's work. When the Billy Graham Library opened in the spring of 2007, Franklin Graham invited Mr. Perry to attend, and when he arrived, broke away from the group he was with, and made a point of welcoming Mr. Perry to the event.

21. In February of 2007, Mr. Perry requested and received an advance from Thomas Nelson in the amount of \$12,000. (A true and correct copy of the transmittal letter from Thomas Nelson enclosing this advance payment is attached hereto as Exhibit C and is incorporated herein by reference).

22. In the early summer of 2007, Thomas Nelson contacted Mr. Perry to advise that Franklin Graham was unhappy with his manuscript, and that Thomas Nelson had unilaterally decided to "take him off of the project."

23. Shocked by this news, Mr. Perry wrote a letter to Mr. Graham expressing his surprise and disappointment.

24. Mr. Graham responded expressing concern that Mr. Perry was taking credit for the book idea that Thomas Nelson had originated and pitched to him. Mr. Perry then sent a second letter to Mr. Graham pointing out that he (Mr. Perry) had come up with the idea

for the book and had sold Thomas Nelson on the idea. No response was ever received to this second letter.

25. Shortly thereafter, Mr. Perry learned from Thomas Nelson that Richard Christian was the new agent for Franklin Graham, and that it was Mr. Christian – not Franklin Graham --- who had requested that Mr. Perry be taken off the book project. Mr. Christian then selected a writer of his choice to use for the project.

26. Thomas Nelson never specifically identified any portion of the manuscript that was unacceptable. Nor did Thomas Nelson ever provide Mr. Perry with a thirty-day opportunity, as required in ¶ 12 of the Independent Contractor Agreement, to cure any such concerns with an identified portion of the work.

27. Despite taking Mr. Perry off the project, Thomas Nelson initially agreed to pay Mr. Perry the balance of his fee, if he would pay his agent's 15% fee. Mr. Perry reluctantly agreed to this condition.

28. The contract was later amended as follows on June 5, 2007, to revise the advance payable to Mr. Perry:

WHEREAS, Contractor has asked Publisher to revise that section of the Agreement regarding manuscript payment of Fifty Thousand Dollars (\$50,000.00) following receipt of a fully executed Manuscript Verification Form signed by the Author and Publisher stating the manuscript is complete and fully acceptable to all parties concerned, to now reflect that Contractor received Twelve Thousand Dollars (\$12,000.00) of that amount from Publisher on February 6, 2007, without deduction of Agent's fifteen percent (15%). Further, Contractor has requested payment of the remaining Thirty Eight Thousand Dollars (\$38,000.00) prior to Publisher's receipt of a fully executed Manuscript Verification Form.

(A true and correct copy of the Amendment to Independent Contractor Agreement entered into on June 5, 2007, is attached hereto as Exhibit B and is incorporated herein by reference).

29. On or about December 18, 2015, HarperCollins acquired ownership of Thomas Nelson, Inc.

30. On February 9, 2018, Mr. Perry contacted Thomas Nelson and inquired of Matthew Baugher about selling his royalty participation in the book *Through My Father's Eyes* for an agreed upon lump sum.

31. On February 15, 2018, Mr Baugher responded stating that since Mr. Perry had been replaced as the writer for the book, he had no claim to his royalty percentage. This was the first time that anyone with HarperCollins disavowed or rescinded the Plaintiff's entitlement to future royalties as specifically memorialized in the contract. (Exhibit A at ¶ 5.1).

32. On May 1, 2018, HarperCollins released the book *Through My Father's Eyes*. As of the date of filing of this Complaint, the book is ranked number 32 on the Amazon Top 100 bookseller's list. (A true and correct copy of the cover of this book and its copyright registration page is attached hereto as Exhibit D).

IV. CAUSES OF ACTION

COUNT I Anticipatory Breach of Contract

33. Plaintiff incorporates by reference herein the allegations contained in the preceding paragraphs, and does further allege as follows.

34. The actions of the Defendant constitute an actionable anticipatory breach of contract.

35. As a direct and proximate result of the Defendant's anticipatory breach of contract, the Plaintiff has suffered damage in an amount equal to the combined loss of

royalties at the rate of 2 percent from the anticipated sales of the book *Through My Father's Eyes*.

36. The Plaintiff would further allege and aver that due to the recent death of Rev. Billy Graham on February 21, 2018, the anticipated revenues from the sale of this book are expected to exceed several million dollars.

**COUNT II.
Unjust Enrichment**

37. Plaintiff incorporates by reference herein the allegations contained in the preceding paragraphs, and does further allege as follows.

38. The actions of the Defendant, if it is allowed to market and sell the book *Through My Father's Eyes*, and to retain the contracted royalties due and payable to the Plaintiff, would result in an unjust enrichment of the Defendant and a corresponding economic injury to the Plaintiff.

**COUNT III.
Promissory Fraud**

39. Plaintiff incorporates by reference herein the allegations contained in the preceding paragraphs, and does further allege as follows.

40. The Plaintiff reasonably relied upon the representations made by the Defendant's predecessor-in-interest Thomas Nelson, as an incentive and inducement to enter into the Independent Contractor Agreement.

41. On or about February 15, 2018, the Plaintiff learned for the first time that these representations by Thomas Nelson were knowingly false and were being repudiated by the Defendant.

42. As a consequence of the Plaintiff's reliance on these false representations, he has suffered economic injury in an amount yet to be determined.

COUNT IV.
Declaratory Judgment Act
28 U.S.C. § 2201

43. Plaintiff incorporates by reference herein the allegations contained in the preceding paragraphs, and does further allege as follows.

44. A dispute exists between the parties regarding the rights inuring to the Plaintiff by virtue of the royalty provision in the Independent Contractor agreement (Exhibit A).

45. A declaratory judgment would serve a useful purpose in clarifying the legal relations at issue.

WHEREFORE, PLAINTIFF REQUESTS THE FOLLOWING RELIEF:

1. That he be allowed to file this Complaint, and that process issue to the Defendant, HarperCollins Christian Publishing, Inc., requiring it to respond within the time required under the Federal Rules of Civil Procedure;

2. That at the trial of this case, the Plaintiff have and receive judgment against the Defendant in the amount of \$3,000,000.00, or such amount to be determined by the jury;

3. That the Court issue a declaratory judgment finding that the Plaintiff's legal and equitable rights to receive the royalties that were stipulated to by the parties are protected;

4. That the Plaintiff be awarded such further and general relief as to which he may be entitled, including the costs of this cause and reasonable attorney's fees.

Respectfully submitted,



GRAIN | SCHUETTE ATTORNEYS

/s/ Larry L. Crain, Esq.

Larry L. Crain

Tn. Supr. Crt. No. 9040

[REDACTED]

[REDACTED]

Brentwood, TN 37027

Tel. 615- [REDACTED]

Fax. 615- [REDACTED]

[REDACTED]

Counsel for the Plaintiff

INDEPENDENT CONTRACTOR AGREEMENT

Writer

(for work that includes intellectual property)

This "Agreement" between Thomas Nelson, Inc. whose principal place of business is [REDACTED], (hereinafter "Publisher"), and John Perry, whose address is [REDACTED], Nashville, Tennessee 37205, (hereinafter "Contractor"), wherein Contractor agrees, for and in consideration of the obligations stated herein, the receipt and sufficiency of which are hereby acknowledged, to provide services as a writer ("Services"), for a work currently identified as *THROUGH MY FATHER'S EYES* (the "Work") by Franklin Graham ("Author") and described as a biography of Billy Graham from Franklin Graham's perspective.

- 1. Description of the Services:** Contractor agrees to deliver to Publisher a complete and fully acceptable manuscript for the Work in accordance with Publisher's specifications.
- 2. Time of Delivery:** The Services are to be completed and a final, complete and fully acceptable manuscript consisting of approximately 50,000 words delivered to Publisher, as soon as possible, but no later than February 7, 2007.
- 3. Warranties.** Contractor warrants, covenants and represents to Publisher: (a) that his contribution to the Work, is original; (b) that he is the sole author and proprietor thereof and has full power to enter into this Agreement; (c) that Contractor is conveying his rights in the Work to Publisher free and clear of any and all liens and encumbrances; (d) that the Work, or his contribution thereto, has not heretofore been published in any form and that he has not entered into or become subject to any contract, agreement or understanding with respect thereto other than this Agreement; (e) that the Work, or his contribution thereto, will not infringe upon any proprietary right at common law, or any statutory copyright or any other right whatsoever; (f) that the Work is innocent and contains no matter whatsoever that is obscene, defamatory, in violation of any right of privacy or otherwise in contravention of law; and (g) that any work of a third party contracted by or performed on behalf of Contractor shall be completed and delivered to Contractor free and clear of all liens, encumbrances or future obligations upon Contractor or Publisher, evidenced by written agreements between Contractor and such third parties, copies of which agreements shall be made available to Publisher prior to Publisher's final payment to Contractor.
- 4. Copyrights.** The Services and the results thereof shall be commissioned work made for hire, and Contractor understands and acknowledges that he shall own no rights in the Work, including copyright, patent, and trademark rights. Contractor further understands that by reason of the foregoing, he shall neither accrue nor receive any royalties or other compensation other than as stated herein for the publishing of said Work, including, without limitation, electronic publication and/or republication of the Work. Publisher is under no obligation to publish the results of Contractor's services hereunder.

To the extent that the results of the Services or any materials contained therein or prepared therefor or the copyrights therein do not vest in Publisher by reason of same being a work-made-for-hire, then, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Contractor unconditionally and irrevocably grants, transfers

EXHIBIT A TO COMPLAINT - 1

and assigns to Publisher all copyright and other rights to the results of the Services and all materials contained therein or prepared therefor and the results and proceeds thereof, which Contractor may possess or retain, or come to possess in the future, by operation of any law, including those rights arising under copyright, patent, or trademark acts, statutes, and/or common law. Publisher shall have the sole and exclusive right throughout the universe in all languages and in perpetuity to use and exploit all or any part of the results of the Services and all or any part of any material contained therein or prepared therefor, whether or not used therein, in any format or version, by any means and in any media, whether now known or hereafter developed, including, without limitation, electronic publication and/or republication. Without limiting the foregoing, Contractor hereby waives any and all claims that Contractor may now or hereafter have in any jurisdiction to so-called "moral" rights or rights of "droit moral" with respect to the results and proceeds of Contractor's work and services hereunder. Contractor shall execute such further instruments as Publisher may request to evidence, establish, maintain or protect its rights in and ownership of the results of the Services. Contractor's grant of such rights shall extend for the entire period that any copyright, patent, and/or trademark pertaining to the results of the Services shall be effective, including any applicable renewal or extension period of such rights.

5. Compensation. For the satisfactory completion of all Services to be performed by Contractor under this Agreement, Publisher shall pay a total of One Hundred Thousand Dollars (\$100,000.00). Payment will be made as follows:

Fifty Thousand Dollars (\$50,000.00) paid within ten (10) days of Publisher's receipt of a signed Letter of Intent from Writer; and

Fifty Thousand Dollars (\$50,000.00) within thirty (30) days of receipt of a fully signed Manuscript Verification Form acknowledging that the manuscript is in acceptable form by Author and Publisher.

5.1 In addition to the above compensation, Publisher agrees to pay to Contractor a two percent (2%) royalty based on Publisher's net sales of the Work sold in any market or in any format including all possible variations mentioned in the contract Publisher has with Author.

5.2 Publisher will reimburse Writer for travel related to the preparation of a fully acceptable manuscript. Such travel must be pre-approved or arranged by Publisher. Reimbursement shall be made within thirty (30) days of Publisher's receipt of approved invoices. Invoices not to be submitted more frequently than once a month.

6. Statements: Payments and Examination of Records. Publisher agrees to render to Contractor on or about forty-five (45) days after the royalty periods ending: March 31, June 30, September 30, December 31 of each year statements of the account and to pay to Contractor any sums due as reflected on said statements. If Publisher elects to change its accounting periods, the statements and payments due Contractor shall be rendered within forty-five (45) days following the end of such new accounting periods. Publisher shall have the right to allow for a reasonable reserve against return and nonpayment of invoices for copies billed by Publisher. If in any quarterly accounting period the total payment due is less than \$10.00, Publisher may defer the rendering of such statement and payment until such time as the sum of \$10.00 or more shall be due. All royalty statements and other accounts rendered by Publisher shall be binding upon Contractor and not subject to any objection for any reason unless such objection is made in

writing, stating the basis thereof and delivered to Publisher within two (2) years from the date of such statement or account.

Contractor, upon giving Publisher thirty (30) days prior written notice, shall have the right to examine or cause to be examined through certified public accountants the books of account of Publisher insofar as such books of account shall relate to the sales of the Work. Such examination shall take place at Publisher regular place of business and during Publisher's regular working hours. Such audit shall not be conducted more frequently than once during each calendar year and no audit for any accounting period may be conducted more than once. All costs of any audit conducted by Contractor shall be borne solely by Contractor, unless it is found that there is more than a ten percent ~~5~~(10%) discrepancy in favor of author at which point Publisher will bear the full cost of the audit.

7. **Indemnity.** Contractor shall indemnify and hold Publisher harmless against any damage or judgment, including court costs and attorneys' fees, which may be sustained or recovered against Publisher resulting from any breach or violation by Contractor of any warranties contained herein, and shall provide evidence of E&O insurance reasonably required by Publisher. Contractor shall also reimburse Publisher for all expenses including, without limitation, court costs, attorneys' fees and amounts paid in settlement sustained by Publisher in resisting any claim, demand, suit, action or proceeding asserted or instituted against Publisher arising out of Contractor's breach or violation of any warranties contained herein. Publisher shall have the right, upon the assertion of any claim or demand or the commencement of any action or proceeding the basis of which, if sustained, would constitute a breach of Contractor's representations and warranties contained herein, to withhold any payments or other earnings to Contractor hereunder in an amount reasonably necessary in Publisher's good faith judgment to pay the cost of ~~ending such claims and to satisfy~~ any liability arising therefrom. Such moneys will be applied in satisfaction of Contractor's indemnity hereunder and the excess, if any, will be remitted to Contractor after Publisher has been fully indemnified. The warranties contained in this Agreement shall survive its termination and extend to licensees, distributors, printers and assigns. Contractor undertakes for himself and his heirs and assigns to execute at any time on the request of Publisher any document or documents to confirm or continue any of the rights defined herein.

8. **Use of Contractor's Name, Photograph or Likeness.** Publisher may, at its option, use Contractor's photograph or likeness in connection with the Work or in the promotion and advertising of the Work.

9. **Complimentary Copies.** Publisher agrees to present to Contractor one hundred (100) free copies and Contractor's Agent fifty (50) free copies of the Work upon publication and to permit Contractor, pending credit approval, to purchase additional copies for his own personal use at sixty-five percent (65%) off Publisher's suggested retail price.

10. **Assignment.** This Agreement may not be assigned or otherwise transferred by Contractor in whole or in part without the prior written consent of Publisher.

11. **Independent Contractor.** Contractor is not Publisher's employee, agent, or representative and has no authority to bind or commit Publisher to any agreements or other obligations. Contractor acknowledges that he is being engaged as an independent contractor and

not an employee, partner or agent of Publisher and that Publisher will assume no responsibility for withholding income tax, social security tax, or any other payments, or for providing insurance of any kind, including worker's compensation insurance, or any fringe benefits accruing to employees of Publisher. Contractor understands that Publisher may provide to the Internal Revenue Service appropriate reports of the total amount paid to him.

12. Termination. This is a contract at will. Publisher may terminate this Agreement if Contractor fails to provide the Services and deliver the completed Work (or his completed contribution thereto) by the time(s) specified in Paragraph 2, excepting acts of God, or if Publisher determines, in its sole discretion, that all or a portion of the Work is not satisfactory after Contractor has had an opportunity and reasonable time allotted thirty (30) days to remedy specifically identified writing in need of modification. If Publisher terminates this Agreement for either of the foregoing reasons, Contractor shall immediately repay to Publisher all sums theretofore paid Contractor under this Agreement. If Publisher terminates this Agreement through no fault of Contractor, Contractor shall keep any and all sums theretofore paid Contractor.

13. Headings. The headings of this Agreement are for convenience only and shall not be deemed to describe or modify the contents of any provisions.

14. Entire Agreement. This Agreement constitutes the complete understanding of the parties with respect to the subject matter hereof and supersedes all previous oral and written representations or Agreements regarding such subject matter. No modification or waiver of any provision of this Agreement shall be valid unless it is in writing and signed by the parties hereto.

15. Severability. If any provision of this Agreement is found to be invalid, unenforceable or illegal, in whole or in part, the remaining terms and provisions of this Agreement shall remain valid and enforceable and shall not be affected thereby.

16. Notices. Any notices or other official communications required or permitted under this Agreement shall be sufficiently given if personally delivered or sent by recognized overnight delivery service or by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

To Publisher:
Thomas Nelson, Inc.
[REDACTED]
[REDACTED]
Nashville, Tennessee 37214-1000
Attention: Jonathan Merkh

To Contractor's Agent:
Matt Jacobson
Loyal Arts Literary Agency
[REDACTED]
[REDACTED]

Any such notice or communication shall be deemed to have been given as of the date so mailed. Any notice given in any other manner shall be deemed to have been duly given when actually received.

17. **Agent.** Author irrevocably appoints Loyal Arts Literary Agency, P.O. [REDACTED] Oregon [REDACTED], as Author's sole and exclusive agent (the "Agent") with respect to the Work. As sole and exclusive Agent, the Agent is hereby irrevocably authorized and empowered by Author to act on Author's behalf in all matters arising from and pertaining to this Agreement. All sums due Author under this Agreement shall be paid eighty-five percent (85%) to Author and fifteen percent (15%) to Agent. Agent's Tax Identification Number is: 93-1257166.

18. **Choice of Law/Venue.** The parties agree that this Agreement shall be interpreted and governed by the laws of the State of Tennessee. The parties agree further that the venue for any lawsuit hereunder shall lie exclusively in the courts located in Davidson County in the State of Tennessee to the exclusion of all other counties and states, and said courts shall have personal jurisdiction of the parties hereto with respect to any matter of controversy arising from or with respect to the Agreement.

WITNESS OUR SIGNATURES, this the 27th ^{October} day of September, 2006.

THOMAS NELSON, INC.

By: 

Jonathan Merkh
Senior Vice President & Publisher

CONTRACTOR

By: 

John Perry


(Witness to Contractor's Signature)

If Contractor is a corporate entity, the undersigned individual agrees personally to provide the services called for in this Agreement, and to be bound by the terms of this Agreement

Social Security Number or Federal Tax ID Number of person or organization to whom payment is to be made: [REDACTED]

AMENDMENT TO INDEPENDENT CONTRACTOR AGREEMENT
DATED NOVEMBER 3, 2006

THIS AMENDMENT ("Amendment"), is made and entered into as of the fifth day of June, 2007, by and between John Perry (hereinafter called "Contractor") and Thomas Nelson, Inc., a Tennessee corporation, having its principal place of business at 501 Nelson Place, Nashville, Tennessee 37214 (hereinafter referred to as "Publisher").

RECITALS

WHEREAS, Franklin Graham (hereinafter "Author") and Nelson Books, a division of Thomas Nelson, Inc., entered into a Publishing Agreement dated September 20, 2006 for the literary work titled *THROUGH MY FATHER'S EYES* by Billy Graham (hereinafter the "Work").

WHEREAS, Publisher with the mutual consent of Author entered into an Independent Contractor Agreement to hire the services of Contractor as a writer for the Work.

WHEREAS, Contractor has asked Publisher to revise that section of the Agreement regarding manuscript payment of Fifty Thousand Dollars (\$50,000.00) following receipt of a fully executed Manuscript Verification Form signed by the Author and Publisher stating the manuscript is complete and fully acceptable to all parties concerned, to now reflect that Contractor received Twelve Thousand Dollars (\$12,000.00) of that amount from Publisher on February 6, 2007, without deduction of Agent's fifteen percent (15%). Further, Contractor has requested payment of the remaining Thirty Eight Thousand Dollars (\$38,000.00) prior to Publisher's receipt of a fully executed Manuscript Verification Form.

NOW, THEREFORE, for and in consideration of the promises, terms, covenants and conditions set forth herein and in the Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Publisher agrees to add the following paragraph 5.3 under Paragraph 5 titled **Compensation** to said Publishing Agreement:

5.3 Publisher agrees to pay Contractor the final manuscript payment of Thirty Eight Thousand Dollars (\$38,000.00) without a fully executed Manuscript Verification Form signed by Author and Publisher stating the manuscript is complete and fully acceptable to all parties concerned. Such payment shall be divided as follows: Contractor shall receive Thirty Thousand Five Hundred Dollars (\$30,500.00) and Agent shall receive Seven Thousand Five Hundred Dollars (\$7,500.00).

By their signatures below, the parties have mutually agreed to the terms and conditions of this Amendment.

EXHIBIT B TO COMPLAINT - 1

All other terms of the original Publishing Agreement not revised herein shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the day and year first above written.

PUBLISHER:

THOMAS NELSON, INC.,

(Witness to Publisher's Signature)

By: _____

Joel Miller
Vice President & Publisher

CONTRACTOR:

Beth Harden

(Witness to Contractor's Signature)

John Perry

John Perry



February 1, 2007

Brian C. Hampton

John Perry will receive \$12,000 as an early part of the original advance of \$50,000 for continued work on the manuscript *Through My Father's Eyes*.

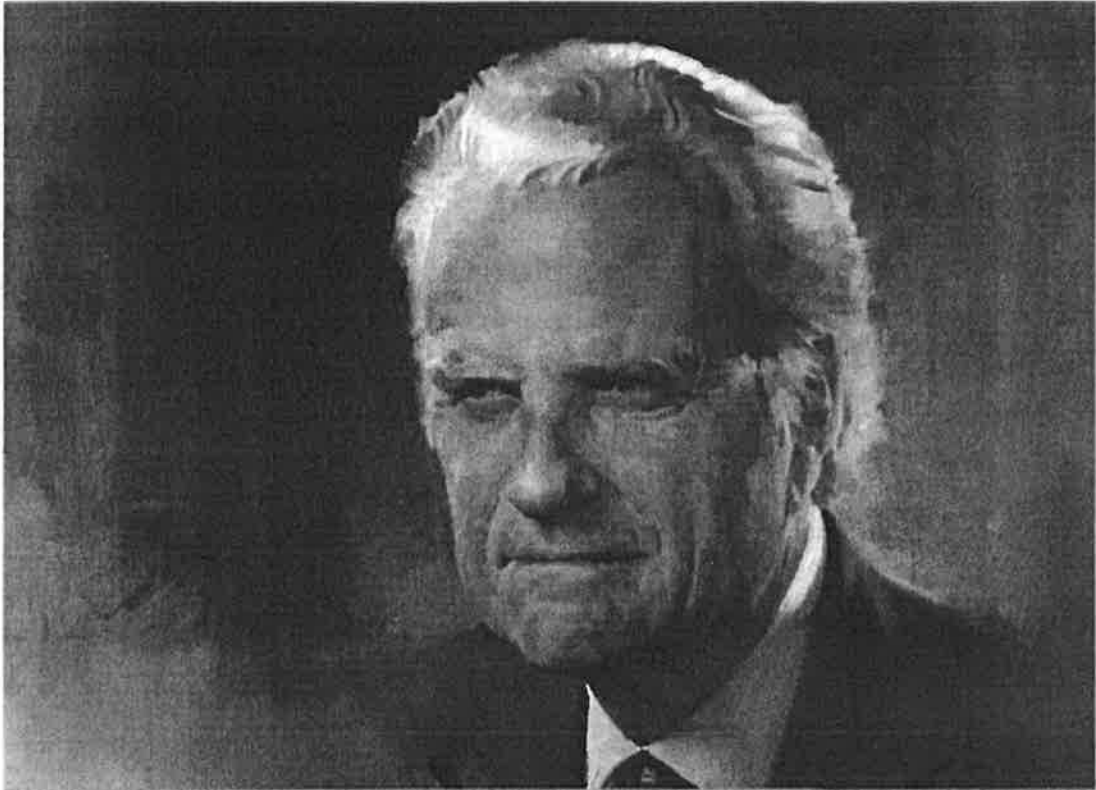
Brian C. Hampton

Brian C. Hampton

John Perry

John Perry

EXHIBIT C TO COMPLAINT



Through
MY FATHER'S
EYES



FRANKLIN
GRAHAM
with Donna Lee Toney

Copyright © 2018

Through My Father's Eyes

Franklin Graham

with

Donna Lee Toney



W PUBLISHING GROUP
AN IMPRINT OF THOMSON NEXSON

Through My Father's Eyes
© 2018 Franklin Graham

All rights reserved. No portion of this book may be reproduced, stored in a retrieval system, or transmitted in any form or by any means—electronic, mechanical, photocopy, recording, scanning, or other—except for brief quotations in critical reviews or articles, without the prior written permission of the publisher.

Published in Nashville, Tennessee, by W Publishing Group, an imprint of Thomas Nelson.

Published in association with Alive Literary Agency, Inc., 7680 Goddard Street, Suite 200, Colorado Springs, CO 80920. www.aliveliterary.com.

Cover portrait of Billy Graham by John Howard Sanden. Used by permission.

Page design: Walter Petric

Thomas Nelson titles may be purchased in bulk for educational, business, fund-raising, or sales promotional use. For information, please e-mail SpecialMarkets@ThomasNelson.com.

Unless otherwise noted, Scripture quotations are taken from the New King James Version®, © 1982 by Thomas Nelson. Used by permission. All rights reserved.

Scripture quotations marked NASB are from the New American Standard Bible®, © 1960, 1962, 1963, 1968, 1971, 1972, 1973, 1975, 1977, 1995 by The Lockman Foundation. Used by permission.

Scripture quotations marked NIV are from the Holy Bible, New International Version®, NIV®, © 1973, 1978, 1984, 2011 by Biblica, Inc.®. Used by permission of Zondervan. All rights reserved worldwide.

Scripture quotations marked KJV are from the King James Version of the Bible. Public domain.

Scripture quotations marked SWB are from *A Translation of the Old Testament Scriptures from the Original Hebrew*, by Helen Spurrell (London: James Nisbet and Co., 1885).

Italics added to Scripture quotations are the author's own emphasis.

Any Internet addresses, phone numbers, or company or product information printed in this book are offered as a resource and are not intended in any way to be or to imply an endorsement by Thomas Nelson, nor does Thomas Nelson vouch for the existence, content, or services of these sites, phone numbers, companies, or products beyond the life of this book.

ISBN 978-0-7180-1518-3 (eBook)

ISBN: 978-0-7180-2180-1 (HC)

Library of Congress Control Number: 2018902988

ISBN 978-0-7852-2713-7 (HC)

Printed in the United States of America

18 19 20 21 22 LSC 5 4 3 2 1

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

NOTICE REGARDING CONSENT OF THE PARTIES

Pursuant to 28 U.S.C. § 636(c), Fed.R.Civ.P. 73, and Local Rule 73.01, this Court has designated the Magistrate Judge of this District to conduct trials and otherwise dispose of any civil case that is filed in this Court. After an order of transfer is entered in a case, the Magistrate Judge may conduct any and all proceedings in the case, including the conduct of a jury or non-jury trial, and may order the entry of a final judgment in accordance with 28 U.S.C. § 636(c); and Fed.R.Civ.P. 73. In the course of conducting such proceedings, a Magistrate Judge may hear and determine any pre-trial and post-trial motions, including case-dispositive motions.

If all parties agree to the assignment of the case to the Magistrate Judge, an appeal, if any, shall be taken directly to the U. S. Court of Appeals as provided in 28 U.S.C. § 636(c)(3) and Rule 73(c). Further review may be taken to the U. S. Supreme Court by writ of certiorari.

If all parties do not consent to a transfer of jurisdiction to a Magistrate Judge, no consent form will be filed with the Clerk and no party will reveal to the Clerk or any judge the position of any party on the issue of consent.

The consent form is attached and a fillable form is available on the court's website at www.tnmd.uscourts.gov under the forms section. When filing the Notice of Consent, in the CM/ECF filing system, use the event listed under Notices, Notice of Consent of the Parties.

DO NOT RETURN THE ATTACHED FORM UNLESS ALL PARTIES CONSENT TO PROCEED BEFORE THE MAGISTRATE JUDGE.

UNITED STATES DISTRICT COURT
for the
MIDDLE DISTRICT OF TENNESSEE

John Perry

Plaintiff,

v.

Case No.: 3:18-cv-00416

HarperCollins Christian Publishing, Inc.

Defendant,

NOTICE, CONSENT, AND REFERENCE OF A CIVIL ACTION TO A MAGISTRATE JUDGE

Notice of a magistrate judge's availability. A United States magistrate judge of this court is available to conduct all proceedings in this civil action (including a jury or nonjury trial) and to order the entry of a final judgment. The judgment may then be appealed directly to the United States court of appeals like any other judgment of this court. A magistrate judge may exercise this authority only if all parties voluntarily consent.

You may consent to have your case referred to a magistrate judge, or you may withhold your consent without adverse substantive consequences. The name of any party withholding consent will not be revealed to any judge who may otherwise be involved with your case.

Consent to a magistrate judge's authority. The following parties consent to have a United States magistrate judge conduct all proceedings in this case including trial, the entry of final judgment, and all post-trial proceedings.

Parties' printed names

Signatures of parties or attorneys

Dates

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Reference Order

IT IS ORDERED: This case is referred to a United States magistrate judge to conduct all proceedings and order the entry of a final judgment in accordance with 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73.

Date: _____

District Judge's signature

Printed name and title

DO NOT FILE THIS FORM UNLESS ALL PARTIES CONSENT TO PROCEED BEFORE THE MAGISTRATE JUDGE. When filing the Notice of Consent, in the CM/ECF filing system, use the event listed under Notices, Notice of Consent of the Parties.

United States District Court
Middle District of Tennessee
Office of the Clerk
800 United States Courthouse
Nashville, Tennessee 37203
(615) 736-5498

**NOTICE REGARDING CORPORATE
DISCLOSURE STATEMENT**

Pursuant to Local Rule 7.02 of the United States District Court for the Middle District of Tennessee, any **non-governmental corporate party** shall file a Corporate Disclosure Statement identifying all its parent corporations and listing any publicly held company that owns ten percent (10%) or more of the party's stock.

A party shall file the Corporate Disclosure Statement as a separate document with its initial pleading, or other initial Court filing, and shall supplement the Corporate Disclosure Statement within a reasonable time of any change in the information.

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

John Perry

Plaintiff

Case No.: 3:18-cv-00416

v.

Judge Aleta A. Trauger

HarperCollins Christian Publishing, Inc.

Defendant

NOTICE OF SETTING OF INITIAL CASE MANAGEMENT CONFERENCE

Pursuant to Local Rule 16.01, notice is hereby given that the initial case management conference before Judge Trauger is scheduled in the chambers of Judge Trauger, 801 Broadway, Room 825, Nashville, TN, at 03:00 PM on 7/5/2018.

LEAD TRIAL COUNSEL FOR EACH PARTY IS REQUIRED TO ATTEND THE INITIAL CASE MANAGEMENT CONFERENCE. Appearance by counsel at the initial case management conference will not be deemed to waive any defenses to personal jurisdiction. Counsel should bring their calendars with them to the conference, as deadlines for the progression of the case and a trial date will be set at that time. Counsel for the plaintiff should notify the courtroom deputy for Judge Trauger if any of the defendants has not been served prior to the scheduled conference date.

Pursuant to Local Rule 16.01(d), counsel for all parties shall, at the initiative of plaintiff's counsel, confer prior to the initial case management conference as required by Fed. R. Civ. P. 26(f) to discuss the issues enumerated in Local Rule 16.01(d)(1)(c) and (2). Pursuant to Local Rule 16.01(d)(1)b.2, counsel for all parties shall, at the initiative of plaintiff's counsel, prepare and file a proposed case management order **AT LEAST 3 BUSINESS DAYS PRIOR TO THE SCHEDULED CONFERENCE.** The attached standard provisions are to be included in Judge Trauger's case management orders. Counsel should consult the court's website (www.tnmd.uscourts.gov) under "Judges" for Judge Trauger's sample initial case management order.

Pursuant to Fed. R. Civ. P. 26(d), discovery is stayed until the initial case management conference. Unless exempted by Fed. R. Civ. P. 26(a)(1)(E), all cases are subject to the required initial disclosure requirements of Rule 26(a)(1).

PURSUANT TO LOCAL RULE 16.01(d)(1)a.1(b), COUNSEL FOR THE PARTY FILING THIS LAWSUIT MUST SERVE A COPY OF THIS NOTICE ON THE OTHER PARTIES TO THIS LAWSUIT, ALONG WITH THE SUMMONS AND COMPLAINT OR WITH THE REQUEST FOR WAIVER OF SERVICE UNDER FED. R. CIV. P. 4(d), OR WITH THE SERVICE COPY OF THE NOTICE OF REMOVAL.

CLERK'S OFFICE
Middle District of Tennessee

**STANDARD PROVISIONS TO BE
INCLUDED IN JUDGE TRAUGER'S
CASE MANAGEMENT ORDERS**

1. The court has jurisdiction of this case pursuant to _____
(cite statues(s))

Jurisdiction is _____
(disputed or not disputed)

2. Mandatory initial disclosures. Pursuant to Fed. R. Civ. P. 26(a)(1), all parties must make their initial disclosures within 14 days after the initial case management conference [or such other deadline as the court approves].
3. Discovery. Discovery is not stayed during dispositive motions, unless ordered by the court. Local Rule 33.01(b) is expanded to allow 40 interrogatories, including sub-parts. No motions concerning discovery are to be filed until after the parties have conferred in good faith and, unable to resolve their differences, have scheduled and participated in a conference telephone call with Judge Trauger.
4. Dispositive motions. Briefs shall not exceed 20 pages. No motion for **partial** summary judgment shall be filed except upon leave of court. Any party wishing to file such a motion shall first file a separate motion that gives the justification for filing a partial summary judgment motion in terms of the overall economy of time and expense for the parties, counsel and the court.

THESE PROVISIONS MUST BE INCLUDED IN ALL CASE MANAGEMENT ORDERS. THEIR LOCATION WITHIN THE ORDER ARE WITHIN THE DISCRETION OF THE LAWYER WHO PREPARES THE ORDER.

UNITED STATES DISTRICT COURT

for the
Middle District of Tennessee

JOHN PERRY

Plaintiff(s)

v.

HARPERCOLLINS CHRISTIAN PUBLISHING, INC.

Defendant(s)

Civil Action No. 3:18-cv-0416

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* HarperCollins Christian Publishing, Inc.
c/o
Troy Edens
[Redacted]

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Larry L. Crain, Esq.
[Redacted]

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

KEITH THROCKMORTON

MAY - 3 2018

CLERK OF COURT

Date: _____

[Signature]

Signature of Clerk or Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

JOHN PERRY,

Plaintiff,

-vs-

HARPERCOLLINS CHRISTIAN
PUBLISHING, INC.,

Defendant.

)
)
)
)
)
)
)
)
)
)
)
)
)

Case No. 3:18-cv-00416

JURY DEMAND

ENTRY OF APPEARANCE

Undersigned counsel hereby enters an appearance on behalf of the Plaintiff,
JOHN PERRY.

Respectfully submitted,



CRAIN | SCHUETTE ATTORNEYS

/s/ Brian L. Schuette
Brian L. Schuette, BPR# 19261
CRAIN | SCHUETTE ATTORNEYS

████████████████████
Bowling Green, KY 42104
(270) ██████████████████
(270) ██████████████████

████████████████████
████████████████████

/s/ Larry L. Crain
Larry L. Crain, BPR# 9040
CRAIN | SCHUETTE ATTORNEYS

[REDACTED]
[REDACTED]
(615) [REDACTED]
(615) [REDACTED]
[REDACTED]
[REDACTED]