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**THE CHANCELLOR'S BIG TEST CAN CHANG-LIN TIEN ACHIEVE WHAT HE CALLS 'EXCELLENCE THROUGH DIVERSITY' AT THE FRACTIOUS UNIVERSITY OF CALIFORNIA AT BERKELEY?**

*San Francisco Chronicle , Sunday May 5, 1991*

IRVIN MUCHNICK

*Edition: SUNDAY , Section: TW , Page: 8/Z1*

Irvin Muchnick is a writer who lives in Berkeley. His work has appeared in the New York Times Magazine, Sports Illustrated, Spy and the Village Voice, among others.

At the start of the third week of Operation Desert Storm, an anti-war teach-out dominated Sproul Plaza, near the main gate of the University of California at Berkeley. Chang-Lin Tien used the occasion to work the place like a maitre d' -- shaking hands, chatting and mingling with students, sharing felicitations on the basketball team's recent upset of national powerhouse Arizona.

Since he became Berkeley's seventh chancellor last July, part of Tien's stated mission has been to make his intimidating campus seem friendlier and less bureaucratic, and at 5 feet, 6 inches tall, with horn-rimmed glasses, a youthful cowlick and a hearty Kiwanis Club guffaw, he plays the part well. On this day he wore a dark business suit with a tie decked in the Cal colors of blue and gold, but when the occasion demands it, he can promote old-fashioned school spirit with a self-consciousness bordering on corn pone. During freshman orientation week last summer, donning a Cal Bears sweatshirt and manning an information booth, Tien could have been mistaken for an amiable postdoctoral student with a part-time job in the office of the dean for student life, rather than the \$165,100-a-year chief of the world's premier public institution of higher learning.

For another generation of students, Sproul Plaza is sacred ground -- the spot where Mario Savio launched the Free Speech Movement in 1964, the touchstone of contemporary campus protest. But whether because hostilities broke out during the semester break, when most students were away, or because this time there was no draft, or simply because the war enjoyed broad public support, the Gulf conflict failed to galvanize Cal's 22,000 undergraduates, 9,000 graduate students and 1,700 faculty members at anything approaching Vietnam-era levels. This teach-out, consisting of a series of simultaneous discussion circles, followed by a general rally and march, attracted a hardcore crowd in the hundreds; for most of the rest, bustling to and from the classes that Chancellor Tien refused to suspend, it was a curiosity, differing little from the parade of soapbox orators, performance artists and pamphleteers for religious cults that punctuates the campus' daily rhythms.

Tien's own take on the unexpected calm at Berkeley was characteristically breezy and upbeat. "I'm the new chancellor," he joked to one group of students, "so I guess I'll claim all the credit for creating a new atmosphere." On a more serious note, he said, "I'm pleased that we've had many forums and discussions and so on, but also that everything has been very constructive, very positive, very civil."

By the time the first speaker took the podium at the main rally, the chancellor had already hiked to the Faculty Club for a lunch date with the Japanese consul general; that official was bearing a message from Prime Minister Toshiki Kaifu, with whom Tien had an audience last November in Tokyo. Next up: a fence-mending meeting with black community leaders and clergy, who were still upset with Tien -- the first Asian American, and indeed the first person of color, to head a major research university in this country -- over his decision to send the Cal football team to the Copper Bowl in Tucson on New Year's Eve, the month after Arizona voters rejected a state holiday in honor of Martin Luther King's birthday.

That evening, having disposed of the last piece of paper on the immaculate oak desktop in his seventh-floor office overlooking the western edge of the campus, Tien decided to drop in on the student government senate on his way home (and before his daily drive through the south campus area to inspect the progress of clean-up efforts at People's Park).

During a half-hour question-and-answer session, it was apparent that uppermost on the minds of student leaders was not the Gulf crisis but the current state budget crunch, which had already mandated across-the-board program cutbacks at Cal this year and will force an unprecedented 40 percent tuition hike next year.

Asked later if he had staked out a position on the war, the Chinese-born, Taiwanese-educated Tien -- whose English is serviceable, if somewhat spare and epigrammatic -- demurred. "I don't want to get into that," he said. "There are many aspects. It's not black and white ..."

The same could be said of his university and his state. Sometime around the turn of the century, a mere 40 years after four out of five of its residents were white, California will become the first state on the mainland without a racial majority. This demographic earthquake is largely attributable to the influx of Asians -- predominantly of Chinese background, but also including Japanese, Koreans, Indochinese, Filipinos, Polynesians, Iranians, Indians and others.

A parallel and perhaps even more rapid transformation is taking place at Chang-Lin Tien's Berkeley, where the cyclotron was developed, the human polio virus was isolated and the world's largest collection of Mark Twain materials resides. Alone among the nation's citadels of elite learning, Cal -- which operates under a vague legislative mandate to make the ethnic composition of its student body reflect that of the state at large -- is no longer a predominantly white institution. As recently as 1981, the percentage of whites in Berkeley's fall freshman class stood at 60 percent. But whites now comprise a mere 34

percent of incoming freshmen; Asians, 31 percent; Hispanics, 21 percent; and African Americans, 7 percent. (The latter is a declining figure that alarms black leaders and others, especially since high dropout rates really mean that fewer than 3 percent of Berkeley graduates are black.)

Among the major challenges for the new chancellor, whose official inauguration was held on March 22, are expansion of an aging physical plant on campus and the struggle to alleviate urban crime and homelessness off campus, all within the constraints of historic budget cuts. Governor Pete Wilson has already projected a state budget shortfall of \$10 billion, and the UC system, which was originally earmarked for \$295 million in cuts (about a fifth of which would be accounted for on the Berkeley campus), now faces even more severe sacrifices.

But the issue certain to be the barometer of Tien's success will be his effectiveness at brokering the often conflicting claims of California's array of racial groups. "If the 21st century is going to work anywhere, it will have to work here," says Sally Fairfax, a Cal professor of forestry who formerly coordinated the university's compliance with the Federal Title IX regulations regarding civil rights for women.

The complexities of a multiracial campus were the subject of a recent survey directed by sociologist Troy Duster of Berkeley's Institute for the Study of Social Change. Duster concluded that, although university life has been made more vibrant by the undergraduate student body's metamorphosis from a lily to a rainbow, the campus needs novel approaches to discourage students from "balkanizing" into ethnic enclaves, which perpetuate gaps of language and background.

One obvious target is the comparatively homogeneous Cal faculty, still 89 percent white and 84 percent male, with a mean age during the 1980s that rose from 45 to 49. University faculties are generally self-reproducing, and Berkeley's, with its tradition of strong participation in university governance, is especially so. But thanks to a large number of pending retirements, professorates will turn over by nearly half during the 1990s, offering Tien a margin to reallocate resources in ways that foster diversity. The first key test here will be his review later this spring of the annual recommendations on the disposition of tenure cases, submitted by the Academic Senate's powerful Committee on Budget and Interdepartmental Relations.

The course of the Tien administration will also influence the national debate on the future of affirmative action, which was fueled late last year by contradictory rulings by the U.S. Department of Education's Office of Civil Rights on the legality of scholarships based on racial preferences. At Berkeley, that debate long ago moved from abstraction to confrontation. Prodded by Republican Congressman Dana Rohrabacher of Long Beach, who represents a district with large conservative and Asian constituencies, the department is investigating charges of anti-Asian bias in Berkeley's undergraduate and law school admissions.

And last November, protesters invaded a classroom and interrupted a lecture by an anthropology professor who propounds unorthodox racial theories and is a strident critic of Cal's diversity policies. Tien, however, seems to have survived the often volatile spring semester without the more conventional protests that marked the last months of his predecessor, Chancellor Ira Michael Heyman: the occupation of two administration buildings for parts of two days last March, and the first wide-scale strikes of classes in 21 years last April.

Among the patrons of Berkeley's legendary coffeehouses, a favorite parlor game these days is sifting Tien's lean early statements in an effort to glean just how aggressively he intends to extend to the graduate student and faculty levels Heyman's affirmative action record on undergraduate admissions. So far Tien has chosen to concentrate on redrawing administrative flow charts, keeping a clean desk and demonstrating a commitment to staying in touch through continued supervision of a lab of grad students and through occasional guest lectures to undergrads. Despite an unfavorable student-to-faculty ratio of 17.6 to 1 (at most Ivy League universities, it hovers around 8 to 1), he vows to make the improvement of the undergraduate experience a priority.

Tien's most visible displays, like his full-throated presence at Memorial Stadium and Harmon Gym athletic events, seem dedicated to pacifying nervous constituents of the California moneyed establishment. (Tien himself, who comes from a prominent Chinese banking family, is now on the board of directors of the parent company of Wells Fargo Bank.) Dealing almost exclusively in symbols, he has scrambled images of his office -- cultural, geographical and intellectual -- that have accrued throughout Berkeley's 123-year history, while keeping his options open.

In 30 years as a faculty member, department chairman and vice-chancellor, Tien earned liberal bona fides: He mentored the first female professor in Cal's mechanical engineering department and was the first administrator to endorse the American Cultures requirement (a curriculum reform, designed to expose students to a variety of ethnic perspectives, that is scheduled to take effect this fall). Yet today the reviews from the same quarters are quietly critical.

Deep within Tien the sports nut and Tien the indefatigable hand-shaker, some fear, beats the heart of a calculating technocrat -- someone who cites as one of his proudest moments an order last fall, in response to student sentiment, to turn the fountain back on in Sproul Plaza and find water savings elsewhere. For all his considerable personal charm, he refuses to meet with ad hoc student groups, insisting that they go through the channels of student government. The volcanic Heyman, a former New York lawyer, delighted in dispensing favors with the freewheeling paternalism of a ward boss; the cautious Tien, a renowned mechanical engineer, plays strictly by the book.

But others believe Tien has struck the right note, reversing a dangerous tendency of the contemporary academy to bend to the will of dogmatic, "politically correct" special interests. In this view, Berkeley needs efficiency and clearly defined hierarchies, as well as a communal spirit, and all are fostered by Tien's controlled management style. "You

get the feeling that the chancellor here now realizes he's running a university, not UNESCO," says political science professor Kenneth Jowitt.

Tien brings to the task a rich personal history, grounded in the serial saga of American race relations and packaged with resonant anecdotes. When he arrived in the United States as a graduate student at the University of Louisville in 1956, he likes to recall, he observed at close range the treatment of blacks in the Jim Crow South; riding once in the "Whites Only" section of a municipal bus, he was so disconcerted that he opted thereafter to walk 45 minutes from his apartment to campus. At the time of his move to Berkeley three years later, he points out, racial covenants would have prevented his purchasing the house he now occupies high in the hills near the Lawrence Hall of Science.

"I look at what happened and say we shouldn't tolerate any injustice," Tien says. "But in 30 years we've made tremendous progress. I'm very realistic in that sense. I've tried to push as hard as I can many of the affirmative actions, but at the same time I feel you have to be constructive, positive, or we are not doing the minorities a service."

Tien's signature slogan, "excellence through diversity," has mystified observers across the spectrum. Like other major American universities, Berkeley is engaged in a delicate balancing act in its admissions and hiring practices between conventional measures of quality (such as Scholastic Aptitude Test scores) and heterogeneity (defined along racial and ethnic lines). Opponents of what they call reverse discrimination believe the former should be controlling; on the whole, even advocates of affirmative action, while subscribing to a more fluid vision of excellence, acknowledge that in individual cases, trade-offs in quality are necessary to redress the historic underrepresentation of minorities and women.

But Tien insists that excellence-through-diversity doesn't merely split the difference between these warring factions. "When we open up the resources for minorities and women, you are creating a big pool," he explains. "So you actually can attract a lot of new talent into the widening pool.... I don't see in the future how you can reach the highest level of excellence without first tackling the diversity question. We have to educate the future leaders who will need the background to handle the multicultural and multiethnic world. Excellence and diversity are not mutually exclusive; they are extremely interdependent."

In the meantime, however, top schools like Berkeley must select most of their new faculty from a national Ph.D. pool that is less than 7 percent black and Hispanic.

The delicacy of the diminishing presence of blacks at Berkeley was highlighted last fall by the football team's appearance in the Copper Bowl. The politicization of a college football game was widely ridiculed by national commentators and even wound up playing poorly at Berkeley, which has a flair for immoderation. But the San Francisco chapter of the National Association for the Advancement of Colored People called for Tien's resignation. And the Campus-Community Council on African American Affairs, angry over the way the decision to play the game was clumsily sold to the public through

the statements of black football players -- who were in turn ostracized by other outraged black students -- issued a statement saying, "No one expected this type of duplicity from a Chang-Lin Tien administration."

After the controversy died down, I asked Tien if the Copper Bowl affair had caused him any personal anguish. His answer revealed the austere detachment that other administrators say is his essence. "Not really," he said evenly, then recapitulated the benefits to the athletic department of national television exposure, and the votes of the County of Pima in Arizona and the city of Tucson in favor of a King holiday. There was no time, he insisted, to consult widely or even to solicit the input of his top aides (both Daniel Boggan, the vice-chancellor for business and administrative services, and W. Russell Ellis, the vice-chancellor for undergraduate affairs, are black).

But if Tien's handling of the Copper Bowl was a political fumble, to use a sports metaphor, it was a rare one. A pan-Asian hero whose appointment last year made the front pages from Singapore to Seoul, he combines one-on-one skills with deftness as a storyteller, making him as comfortable in front of neighborhood groups in San Francisco's Chinatown (many of whose residents are recent immigrants from China who distrust the Taiwanese banking class) as he is rubbing elbows with CEOs in Silicon Valley (who share Tien's brimful confidence and upward mobility). The reverence toward scholars in the Chinese heritage, as well as the special relationship of Chinese immigrants with Cal (analogous to that of an earlier generation of Eastern European Jews with City College of New York), gives him an especially sanctified status in his own community.

"A naturalized citizen can't run for president of the United States," says Henry Der, the executive director of the San Francisco-based Chinese for Affirmative Action, himself a graduate of Cal's regional rival, Stanford. "But as far as a lot of Chinese Americans are concerned, chancellor of Berkeley is the next best thing."

Tien was born in the central Chinese city of Wuhan in 1935. His father, who studied physics at Beijing University and taught at a university in Wuhan, served as a finance commissioner at both the local and national levels in various incarnations of the Chiang Kai-shek regime. The Tiens were dislocated twice: first by the Japanese occupation during World War II, which forced the family to flee from Wuhan to Shanghai, and then by the Communist takeover after the war, which drove all high-ranking officials of the Kuomintang from the mainland to Taiwan.

At National Taiwan University, Tien was one of the thousands of progeny of Chiang loyalists who hewed to the American bootstrap model. Between classes, he consumed enough American popular culture to qualify as a Hollywood trivia buff; he also played semipro basketball and daydreamed of a career in the national Basketball Association. "But it didn't take an engineering genius to calculate that 5-foot-6 was not a prime number for an American basketball team," he says. "I like a challenge, but that was a little too much."

Ultimately, Tien became part of the "brain drain" of young scholars in the 1950s who left behind the intellectual repression of Taiwan for the comparative openness of the United States (a group that would also include Tien's future close friend at Berkeley, the Nobel Prize-winning chemist Yuan K. Lee). After earning his master's degree in mechanical engineering from the University of Louisville and his Ph.D. from Princeton, he joined the Berkeley faculty at age 24, becoming a naturalized American citizen 10 years later. He and his wife, Di-Hwa, the daughter of a general in Chiang Kai-shek's army, have three children, all Berkeley graduates: Norman, a graduate student in microelectronics at UC San Diego; Phyllis, who is in medical school at UC San Diego; and Kristine, a graduate student at Harvard's Kennedy School of Government.

Tien's career path made him "always the most meteoric -- the youngest, the fastest, the quickest," in the words of the current chairman of Cal's mechanical engineering department, C.D. Mote Jr. An authority on thermal radiation and other aspects of heat transfer ("a good definition of my current job," he says dryly), Tien was the first person elected to the National Academy of Engineering, the highest recognition in the field, before his 41st birthday.

The crossroads of Tien's administrative career came in 1987 -- following a successful stint as vice-chancellor for research -- when Chancellor Heyman bypassed him for the high administrative post of provost of the professional schools. Tien confirms that he was bitter; friends add the tableau of a subsequent meeting with Heyman over drinks at the Faculty Club, in which Tien lectured him on the nature of anti-Asian discrimination at Berkeley.

But his failure to be named provost turned out to be a huge break, freeing him in 1988 to accept the executive vice-chancellorship at UC Irvine. Tien's experience in Orange County, the antithesis of what some have nicknamed "The People's Republic of Berkeley," broadened his scope, established him as a systemwide team player and brought him to the attention of UC President David Gardner, the one-time chairman of President Reagan's National Commission on Excellence in Education.

When Heyman stepped down at Berkeley, Gardner -- whose conservative temperament has made him a favorite of the predominantly Republican Board of Regents -- selected Tien to succeed him, and the Regents ratified the choice in February of 1990. The president calls the new chancellor's access to the leaders of government and industry in both Chinas and throughout East Asia an "extra dividend" underscoring the importance of the Pacific Rim in the next stage of Cal's development.

An equally compelling qualification may have been Tien's ongoing role in mediating disputes between the Berkeley administration and the Asian American community over alleged quotas in freshman admissions. Currently, 32 percent of Asian American high school graduates in California qualify as "UC-eligible" by virtue of ranking in the top eighth of the academic index, a synthesis of high school grades and SAT scores; the comparable figures for whites, Hispanics and blacks are, respectively, 16, 5 and 4.6 percent. Following a mysterious, and temporary, mid-'80s drop in the percentage of



newly enrolled undergraduates with Chinese backgrounds, Heyman apologized to the Asian American community and reorganized the admissions office.

In 1989, the Academic Senate adopted the report of a committee chaired by sociology professor Jerome Karabel, which called for increasing the proportion of admissions based solely on grades and tests scores, while at the same time adding a category of the socioeconomically disadvantaged to the list of groups (among them athletes, the disabled, rural students and historically underrepresented minorities) already enjoying preferential treatment. But since then, conservative attacks on Berkeley's diversity policies, coupled with a legal climate increasingly hostile to affirmative action, have at least temporarily kept Tien from fully embracing the Karabel recommendations. He now calls the report "a general principle" whose implementation needs further study.

On November 7, 400 students gathered at Wheeler Auditorium for a lecture by anthropology professor Vincent Sarich, a lively polemicist whose discourses on the genetics of blacks, women and homosexuals outrage an overwhelming portion of students and faculty members. Sarich is also the author of a right-wing critique of the Karabel report in a letter last year to the late regent and former Reagan attorney general William French Smith. That essay, adapted into an article for the alumni publication California Monthly, attacked "the institutionalization of racism at Berkeley." Citing discrepancies in the standardized test scores of different groups, Sarich concluded, "Unfortunately, the levels of qualification, preparation, or motivation are not randomly distributed with respect to race and ethnicity." In a subsequent letter to English professor David Lloyd, who rebutted Sarich's article, Sarich wrote, "I really wonder if you, and those who think and act as you do, are as oblivious as you seem to be to how much the appellation 'white male' has become equivalent to the now-banned 'nigger.'"

On this day, approximately 75 students who were not enrolled in his class, but who represented a group called Direct Action Against Racism, burst into the room, shouted "No more racist bull---- in the name of academic freedom!" and interrupted Sarich's efforts to speak for close to half an hour before the professor finally gave up and canceled the class. It was believed to be the first such classroom invasion at Berkeley since a similar furor in the early '70s over the racial views of education professor Arthur Jensen.

An angry Chancellor Tien immediately denounced the "serious violation of the rights of both faculty and students." Cal, he said in a statement circulated throughout the campus, had a long tradition of accommodating individuals and groups who wished to make complaints, "but the disruption of classes ... can never be tolerated."

Various subsequent investigations ordered by Tien have so far failed to develop sufficient evidence to prosecute the students, who were informally warned not to let it happen again. Meanwhile, Sarich went on leave for the spring semester, rendering momentarily moot the question of whether he should be allowed to deliver his eccentric lectures on race and gender as part of a prerequisite lower-division survey course.

Like the Copper Bowl controversy, the Sarich affair exposed the raw nerves of racial tension at Cal. Still, the voices were muted. Tien enjoyed a public bond with students that was forged in the crucible of a pair of off-campus tragedies in September -- a fraternity house fire and an all-night siege by a crazed gunman in a hotel bar -- which together claimed the lives of four students and left the community in a state of numb grief. His frequent visits to organized functions and his regular campus strolls helped the atmosphere; so did his good relationship with Bonaparte Liu, the president of Berkeley's Associated Students of the University of California.

"On the whole, students are pretty positive about Chancellor Tien," says Liu, who is the third consecutive Asian American elected to that office but was recently defeated for reelection by Ukrainian-born Mark Yablonovich. "He presents himself as approachable and accessible. He's also very smart about understanding different views and how they might translate into organizing or lobbying. He plays with the flow of things."

Tien's early initiatives mostly chew at the margins of the diversity issue and buy him time. For example, he is conducting a comprehensive review of FTE (full-time equivalent faculty) management so that as older professors retire, positions can be shifted to emerging disciplines such as international studies and women's studies. He has earmarked 10 FTE as an incentive for all departments to offer "extraordinary opportunities" to minorities and women. And he has instructed his affirmative-action officers to be more pro-active.

"But I will not be the person who tries to build diversity at the expense of quality," Tien says. "That will be the worst thing. You do that, you hurt the same groups you are trying to help, you create a second-class citizenship." So far he has refused to intervene in the celebrated cases of Marcy Li Wang, Joel Garcia and Jenny Harrison, whose dismissals have raised charges of bias in Berkeley's tenure process.

As Berkeley's No. 1 cheerleader knows all too well, its most famous sport will always be the intramural one of fractious debate over cutting social issues. In his droll way, he admitted as much last summer at his first convocation, a ceremony celebrating the opening of classes. For those who want the first Asian American chancellor to succeed, watching him share the stage of the Hearst Greek Theatre with the keynote speaker, New York Mayor David Dinkins -- the first black elected to lead the nation's largest city -- was a moving spectacle.

Introducing Dinkins, Tien noted that his guest's job was often described as the second most difficult in the country. "I'm glad," he quipped, "that even the mayor of New York acknowledges that the hardest job in the world is chancellor of Berkeley."

PHOTO (5), GRAPHIC

(1) Berkeley Fire Department paramedic Kathy Voelker stands watch after the Phi Kappa Sigma fraternity house fire/BY STEVE GERMAN/THE CHRONICLE, (2) Tien scans a copy of a university publication while waiting for an elevator at UC Berkeley's Barrows

Hall, (3) The gunman who held hostages in a Berkeley hotel bar is wheeled to an ambulance after being shot by police, (4) A small sculpture on Tien's desk, portraying the myth of Sisyphus/PHOTOS BY TOM LEVY/THE CHRONICLE, (5) Chang-Lin Tien, chancellor of UC Berkeley, in his seventh-floor office at University Hall

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**Off the Record**

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**Article Text:**

"It wasn't about money," James Gleick said. "Well," he added, "of course it's about money."

Mr. Gleick, a freelance writer and former New York Times reporter, was discussing a pending bounty in the write-for-hire community: On March 23, a group of publishers and database companies including The New York Times, Time Inc. and Lexis Nexis agreed to pay as much as \$18 million to settle a long-running class-action suit over freelancers' rights to articles in electronic archives.

For the most prolific writers, individual payouts could top out above \$100,000.

The settlement would mark the end of a four-year copyright-infringement case, in which three national writers' organizations and 21 writers sued the country's largest newspaper and magazine publishers and 13 major electronic database companies. The class action covers more than 10,000 freelancers.

"We believe this to be the largest settlement on behalf of freelance writer! s ever," said Paul Aiken, executive director of the Authors Guild, which filed the suit along with the National Writers Union, the American Society of Journalists and Authors, and 21 named plaintiffs.

The agreement, which will be presented for preliminary approval at a hearing on March 31 before federal District Court judge George Daniels, guarantees a minimum pay package of \$10 million and a maximum of \$18 million, to be divided among freelancers whose work was included in electronic databases without their permission.

Besides Lexis Nexis, database companies involved include Proquest, Dow Jones and West Group-as well as The Times, whose online archives include more than 100,000 articles written by some 27,000 freelance writers. The Times and The San Diego Union-Tribune are also liable on the print-publishing side, joining publishers including Time Inc., the Washington Post Company and the Hearst Corporation.

"I think [the publishers] were a little too greedy," said Mr. Gleick, who is one of the named plaintiffs in the suit. "I did feel from the beginning, on the basic fact, on the basic merits of the case, it's an open-and-shut case."

The named plaintiffs—a list also featuring Ms. founding editor Letty Cottin Pogrebin, investigative journalist Gerald Posner and novelist E.L. Doctorow—filed as representatives of the class of writers who had formally registered copyrights on their work before it was archived. They each stand to collect \$2,000 on top of the piece-by-piece payout for individual works deemed to have been infringed upon.

"The key thing is, this settlement provides money right away into our writers' pockets," said Gerard Colby, president of the National Writers Union.

So is Mr. Gleick pricing plasma TV's? "I haven't thought about it," Mr. Gleick said. "The true answer is that the point of this suit is that this was money we were entitled to. It's how writers make their living."

Mr. Gleick, who worked for 10 years as an editor and reporter at the paper and currently writes for the Times Magazine on a freelance basis, said the issue of copyright infringement trumped his personal affinity for The Times.

"Well, it's hard for me to piss on The Times," Mr. Gleick said. "I still love The Times, and I have relationships with people there, and it was difficult for me to line up against them in this case while I was working with the editors there I respect so much. But I did, because I felt I had to."

"We are pleased that this issue has been resolved and believe the agreement is fair to all parties involved," Times spokesperson Catherine Mathis said. "The Times has long valued its relationship with the freelancer community and we look forward to continued collaboration."

The case was born out of battles that began more than a decade ago, pitting freelancers against publishers who had begun drawing revenue from online archives of previously published material. Writers maintained that such archives amounted to re-publication, for which they were owed new pay.

In June 2001, the Supreme Court established a precedent on the subject, ruling 7-2 in *Tasini vs. New York Times* that writers, not publishers, retain the rights to sell freelance works to electronic databases. That case had begun in 1993, when Jonathan Tasini, then president of the National Writers Union, sued the New York Times Company, Newsday and Time Inc.

In August 2004, five named plaintiffs in the Tasini case were awarded \$17,000 each in their settlement with the defendants.

In 1995, The Times responded to the Tasini case by circulating a memo to editors saying that freelancers who wrote for The Times would be required to sign away all future rights, including electronic rights, to their work. Those who refused would be barred from writing for The Times.

"The paper's position on this is unambiguous," the memo said. "[I]f someone does not sign an agreement, he or she will no longer be published in the newspaper."

In September 2001, another Times memo advised editors not to work with the 11 named plaintiffs in Tasini—a move that freelancers said amounted to a sanctioned black list.

For freelancers whose livelihood often trades on personal relationships with editors, the suits meant antagonizing potential employers. Ms. Pogrebin, who said she has written dozens of pieces for The Times since the 1970's—including Op-Ed pieces, travel stories

and book reviews-said she thought the suit was worth the risk of alienating Times editors. "I plan and hope to write for The Times again," she said. "I decided to participate in the suit because the injustice seemed self-evident. It was worth it to be a sacrificial lamb in this case."

When the Tasini ruling came down in June 2001, The Times responded by saying it would yank the 100,000 freelancer-written articles out of its archives unless writers ceded their electronic rights.

That caused the Authors Guild and two named plaintiffs-financial columnist ! Lynn Brenner and legal scholar Derrick Bell-to sue The Times in July 2001. In August 2001, Judge Daniels consolidated four separate class-action claims against publishers and databases in a single suit.

In November 2001, negotiations began in court-ordered mediation under Kenneth Feinberg, administrator of the September 11 Victim Compensation Fund. Attorneys representing both sides reached a preliminary legal framework for the settlement by the early months of 2004.

"It was clear early on that there was copyright infringement on a massive scale," said Jim Morrison, the ASJA's president from 2001 to 2003, who was the organization's representative in the suit.

"The settlement is really great for the three groups involved. For the database industry, the newspaper and magazine publishers and the freelance authors," said Charles Sims, an attorney with Proskauer Rose who led the defense effort. "This resolution allows us to put the case behind us and serve the public."

Cash aside, Mr. Gleick hailed the result as a triumph for intellectual property. "I have felt the databases behaved badly and contrary to their best interest," he said. "If they want to encourage a culture of respect for copyrights, they took the wrong position."

-Gabriel Sherman

Don Imus knows how to prod the media into action. On March 24, Mr. Imus used his nationally syndicated WFAN radio program to denounce a front-page story in that morning's Wall Street Journal, which delved into the finances of the broadcast personality's charity ranch in New Mexico. Journal reporter Robert Frank, Mr. Imus declared, was a "dishonest punk."

Articles followed in The New York Times, New York Daily News and New York Post-all principally focusing on Mr. Imus' hostility toward The Journal, rather than the five-figure-per-child costs of hosting young cancer patients at the ranch. Mr. Imus posted Mr. Frank's photograph on the MSNBC simulcast of the show and on that network's Web site, then took it down, saying the reporter had received death threats.

The story, Mr. Imus told all comers, was premature and slanted; Mr. Frank, he said, hadn't taken the time to go see the ranch in action. "We begged him to come out here," Mr. Imus said, in a phone conversation from New Mexico.

But if The Journal story struck Mr. Imus as hasty, the radio host had himself to blame. The squall, it turns out, testified to Mr. Imus' influence in more ways than one: It was another on-air complaint from Mr. Imus, a week before The Journal story came out, that helped precipitate coverage of the charity.

On March 17, Newsweek reporter Charles Gasparino-a former Journal reporter-had e-mailed New York attorney general Eliot Spitzer's office, asking about a possible investigation into the finances of the ranch. Mr. Spitzer's spokesperson wrote back,

saying the inquiry was a routine matter following a late tax filing, and that many of the 40,000 nonprofits overseen by the office are similarly delinquent.

"Spitzer's office was giving me guidance that it wasn't that big of a deal," Mr. Gasparino said in a phone conversation. "So I called my editor and said, 'Let's just wait.'"

But Mr. Gasparino also tried to phone Mr. Imus to ask about the ranch. On March 18, as Mr. Gasparino headed to Kennedy airport to leave for a Las Vegas vacation, he got a call from a Newsweek colleague telling him that Mr. Imus had been discussing Mr. Gasparino's inquiries on the air.

While waiting in line at the airport, Mr. Gasparino called Mr. Imus. The host fielded the phone call off the air, spoke with the reporter for 10 minutes, and then returned to the microphone to talk about the conversation he had just had.

At the same time, Mr. Spitzer's switchboard was lighting up, as reporters followed up on the lead Mr. Imus had given them.

According to Mr. Spitzer's spokesperson, Darren Dopp, one of those calls came from The Journal, where Mr. Frank's story had been in the works for two months. Mr. Dopp said that Journal reporter Ian McDonald called seeking comment in mid-morning that day.

"You heard that Imus was talking about the ranch this morning," Mr. Dopp recalled Mr. McDonald saying. "Another reporter here was working on this for a long time. I need to get something. Editors want to move this story."

Mr. Frank and Mr. McDonald declined a request for comment on whether Mr. Imus' remarks had accelerated their reporting of the Imus Ranch story. In a statement e-mailed through a spokesperson, Journal managing editor Paul Steiger said journalistic competition had no bearing on either the timing or the placement of the piece.

"The Journal's article on the Imus Ranch was accurate and fair," Mr. Steiger said. "It was reported and written by one of our most experienced and capable reporters, who worked on the story for more than two months. We ran the Imus Ranch story when it was ready and it was always intended to run on page one of The Journal."

But the day the story ran, Mr. Spitzer's office announced it was dropping its inquiry into the ranch. Mr. Gasparino said that even before The Journal piece came out, Mr. Spitzer's office had told him that the inquiry had been preliminarily concluded.

"The article contains a thorough airing of Mr. Imus's view of the issues raised in the article," Mr. Steiger wrote in his e-mail. "Our reporter had many detailed discussions with Mr. Imus's representatives during the two months that the article was reported, and he spoke with Mr. Imus at length in two sessions the day before the article was published. If Mr. Imus believes there are any errors in the article, we would of course consider his viewpoint and, if appropriate, correct the record."

Mr. Imus, after characterizing the piece on the phone as "a vicious hatchet job," conceded that he had possibly played a role in bringing it out. "They wouldn't have known about it if I hadn't talked about it on the air," Mr. Imus said.

Three days later, Mr. Imus made that same point on the air himself, while talking to Mr. Gasparino.

-G.S.

In December, Times Talk, the in-house newsletter of The New York Times, published a graphic showing how many trees were killed to make the Nov. 10 Times, desk by desk. Sports claimed 270 trees, represented by little green individual pine-tree icons; weather 35.5.

No more trees, however, would be felled for Times Talk. In January, publisher Arthur Sulzberger Jr. killed the newsletter, citing budget concerns. This month, The Times unveiled an electronic newsletter-self-described as a "Weblog"-on its internal computer network, under the title Ahead of the Times.

Early entries included an account on life in Iraq by Baghdad bureau chief John Burns and a letter of advice to Patrick D. Healy and Patrick O'Gilfoil Healy from David Johnston and David Cay Johnston, written in he said/he said form.

"AHOT has been our newsletter for more than six decades, with roots dating back to Arthur Gelb's days as a night copyboy in 1944," its editor, Grace Wong, wrote in the opening edition on March 1! 4.

Or has it? "It's slightly more complicated than that," said Eden Lipson, an editor with the Book Review and the former editor of Times Talk. The publication founded by Mr. Gelb and his copy-desk colleagues in 1944 was originally titled Timesweek. As Mr. Gelb recounts in his memoir City Room, when he won promotion to reporter in 1947 (thanks to direct and indirect lobbying through Timesweek), his publication was turned over to the paper's marketing department, renamed Times Talk, and given a design makeover. Ahead of the Times was a different publication altogether, launched in 1993 under executive editor Max Frankel. As Times Talk had broadened to cover doings in all departments, Ahead of the Times focused on the newsroom.

The new online publication, Ms. Lipson said, is "so different from Times Talk." The old publication, she said, was "elegant."

Layouts in Times Talk took advantage of the high-end printing capability. Besides the rows of ! dead trees, recent issues featured illustrated guides to the evolution of the designs for the Travel and Book Review sections, archival photographs, and color photos of whoever had been riding in the elevator.

Times Talk had been exiled to the Web in 2002, Ms. Lipson said. In its online form, she said, "it was interactive, it was smart ... [it] whistled Dixie .... And nobody read it."

In the archive of those back issues, a smoothly scrolling animation in the summer 2002 issue unveils a note pleading "Tell someone we're worth the slight effort it takes to find us."

But Times Talk won a reprieve in 2003-after the events Ms. Lipson referred to as "the indelicacy." In the aftermath of that year's scandals, the Siegal Committee cited both newsletters as neglected assets. "Ahead of The Times is important to building newsroom community, and Times Talk should return to print form, a small expense for the benefit it can bring," the committee's report said.

The report had also recommended that newsletters publish more often. ! Whether the new arrangement splits the difference between the two recommendations is unclear; Allan Siegal, now the paper's standards editor, referred a message seeking comment to a Times spokesperson.

"We're trying to give the staff news in real time," said Times career-development editor Glenn Kramon, speaking on the phone the week the new newsletter came out. With the old print newsletters, Mr. Kramon said, "[You'd] learn about babies being born when they were in the first grade."

Two weeks later, Mr. Kramon said that the newsletter was already surpassing its predecessors. "We're closing in on having more material in two weeks that both Ahead of the Times and Times Talk had in a year," he said.