

Richard Boren
Scottsdale, AZ

March 26, 2016

Mr. Wayne Joyner, Trustee
The Andrew J. Galambos and Suzanne J. Galambos
Natural Estates Trust
3600 Wilshire Blvd., Suite 2228
Los Angeles, CA 90010

Re: Demand for Arbitration

Dear Mr. Joyner:

This is in response to your letter of October 29, 2015, regarding the above subject. My response was delayed in part because I was working on significant revisions to my paper, "For Intellectual Property," first published last June, to which you referred. The revised version was published in mid-December and is now available as a PDF at the website of The Voluntaryist, www.voluntaryist.com, under Property and Ideas. I urge you to read it. While you're there, I recommend that you also read "On the Ownership of Ideas" by Carl Watner. His primary influence on this matter is Lysander Spooner's, "The Law of Intellectual Property," but he also read my copy of Galambos' *Sic Itur Ad Astra* before writing his essay.

Although many changes were made to my paper, the primary reason for revising it was to present scientific evidence that supports Professor Galambos' decision to include ideas in his definition of property. Specifically, published experiments have demonstrated that it is *human nature* to see ideas as property. I believe that this is the first time that such empirical evidence has been introduced into the philosophical debate on this subject, and it shows that Galambos was right.

As every student of Galambos should know, what he identified as the fourth step of the scientific method—observation—is what confirms or falsifies a hypothesis. And, as he taught, only observational corroboration can turn a hypothesis into a theory. However, as many students noticed, Galambos referred to his own work as a theory without providing such corroboration. Although there is abundant anecdotal evidence in his favor, it falls short of scientific evidence. To the best of my knowledge he did not provide scientific evidence, nor did he sponsor or otherwise promote any effort to look for it.

In a search for corroboration, last year I asked a prominent professor of psychology about where I might find research that examined how humans view property. He made some suggestions which unfortunately arrived after my paper had been published. I followed them and discovered research that supports Galambos. The experiments were performed by researchers who had no connection to Galambos (and quite likely had never heard of him) and who were simply studying human behavior. The results of their experiments were exactly what I believed they would be: children view ideas as property at ages too young to have been taught to do so. The behavior appears to be innate. Rather than writing a new paper devoted to that research I decided to revise the

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existing one by incorporating what I found so as to have one document that contained all the arguments and evidence known to me.

I hope that you and the other FEI trustees, personnel, and students will review this information and that you will see it as good and important news. In my opinion, looking for this sort of evidence is exactly the kind of activity that Galambos graduates should be involved in, and I believe that the Professor would be pleased that I have published what I have.

Galambos' ideas about property have a prominent and influential opponent, N. Stephan Kinsella, an anarcho-capitalist patent attorney. (The oxymoronic nature of this description is noted.) His best known work is, "Against Intellectual Property," published in 2001. It is his opinion that ideas *cannot be* property and he argues this in writing, in lectures, and in an online course delivered through the Ludwig von Mises Institute.

Although Kinsella never took a Galambos course and appears to have read little of his work, he nevertheless attacks him. Several highly capable FEI graduates, each of them well known to you, have spoken up in Galambos' defense and tried to change Kinsella's mind via in-person conversations and internet exchanges, but have not succeeded. The purpose of my original paper was to make another attempt to counter Kinsella through the use of reason. I was hopeful that even if I did not sway him I might convince others, or at least cause them to take a closer look.

The first version of my paper drew this immediate comment from Kinsella: "It staggers the mind that a libertarian site would publish this complete and utter nonsense. Wow." Later he replied to other commenters, "Galambos had no interesting ideas that I can see. He was a complete nutcase...There is nothing whatsoever of value in Galambos."

Kinsella claims that if ideas were treated as property as advocated by Galambos there would be a number of disastrous effects for society. Galambos' ideas are an existential threat to that position, the one for which Kinsella is best known and which has attracted a number of followers. I believe that the points made in the original version of my paper falsified Kinsella's arguments, but rather than address them he made *ad hominem* attacks on Galambos' defenders, including me, and on Galambos himself. This is what people tend to do when truth and reason are not on their side. As one Galambos supporter said about Kinsella, "He's actually a very nice human being. He's just wrong." It will be interesting to see his response to the experimental evidence. (With that in mind, I included in my paper an anecdote about intellectual honesty offered by Richard Dawkins, and hope that Mr. Kinsella follows the example it sets.)

In the Conclusion to the revised version I asked readers to offer challenges to Galambos—things that they believed would prove Kinsella right and Galambos wrong. As yet I have received none, although I hope to, because I would enjoy the opportunity to refute them. That said, with human nature being what it is I expect that some people will remain silent rather than admitting that they were wrong.

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Now I'll address the points made in your letter. You are attempting to deny access to the customer protection mechanism provided by the contract: arbitration. My inference is that you fear its outcome—as you should.

I began to write an item-by-item rebuttal of your several supposed justifications for refusing to arbitrate but it dawned on me that I should save it for the discovery portion of arbitration and the arbitration hearing itself, where the issue will finally be decided. However, because others who respect intellectual property may see this correspondence before then I will defend myself now against your claims that I committed “blatant plagiarism” and “violated basic copyright principles.” I did neither.

The word “plagiarism” is commonly defined as “to steal and pass off as one’s own the ideas or words of another.” Your charge is ludicrous in view of the fact that the subtitle of my paper is “The Property Ideas of Andrew J. Galambos,” and his name appears 151 times in the 33-page version that you saw. The 51-page revised version mentions Galambos 208 times. Most of the uses of his name are for the purpose of attributing remarks and ideas to him. I believe that every idea original to him is identified as such. You would be hard pressed to find a paper that credited someone more than I credited Galambos. (In an ironic twist, one Galambos supporter criticized me for mentioning Galambos too many times, in the belief that I did so to curry favor with you and your colleagues.)

As to copyright, my use of Galambos’ words (fewer than 700 out of nearly 400,000 in his book, *Sic Itur Ad Astra*) to defend him against attackers and encourage further study of his work constitutes “fair use.” My work is also “transformative.” These are basic copyright principles, and I have respected them. Furthermore, I did not ask readers to end their search for information on the topic with my paper, but told them that there was “no substitute for hearing Galambos’ entire bundle of ideas.” In the Bibliography I showed them where and how they might do that. Unfortunately, that activity has been made unnecessarily difficult or even impossible by you.

Based on the above, I am confident that an arbitrator will rule in my favor if you choose to pursue these allegations of plagiarism and copyright violation.

As a final point on the specifics of your letter, it is based on the premise that you have the authority to deny my contractual right to arbitration, as indicated by your closing sentence, “Arbitration is out of the question.” Your premise is false. You have no such authority. I have no doubt that an arbitrator would agree, for the following reasons.

Section 7.3 of the book contract specifies the means by which disputes are to be settled. It says in part, “The parties hereto agree that *any* dispute between the parties shall be submitted to arbitration...” (Italics added). The plain meaning of “any” in this context is “every” or “all.” It does not mean “some,” or, least of all, “disputes selected by Wayne Joyner.” And since you also cited Section 6.6, which reserves certain rights to TUSPCO, I’ll point out that noticeably absent from those rights is the right to deny arbitration.

No legitimate contract would grant a right for one of the parties to deny use of the dispute resolution mechanism to one of the other parties. You cannot be both a party to the matter and the decider of its outcome, but that is what you are attempting to do. If

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you or any person in your contractual position had the right to unilaterally refuse to arbitrate, then Section 7.3 might as well not exist. Consistent with Galambos' teachings, it is a reasonable assumption that the authors of the contract, Andrew J. Galambos and Frederic G. Marks, intended to promote the resolution of disputes by private means rather than via the state-operated courts. It cannot reasonably be argued that they intended to give you a right to evade the dispute resolution process altogether.

Section 7.3 has the clear purpose of providing a method of dispute resolution. You have no legitimate option but to enter into arbitration as long as any party to the contract has a dispute and demands it. In the present case, I dispute your decision to refuse to publish and deliver the remainder of Book One. I dispute the justifications you have offered for that decision, both as to me specifically and as a general proposition applied to all book purchasers. I dispute every justification that you have put forth in your attempt to deny arbitration to me or, by extension, to anyone else, and I dispute that you have any right to deny arbitration to anyone for any reason. I demand my right to arbitrate these disputes and any others that may arise, and intend to advise other book purchasers to participate in the arbitration.

Because of the time and expense involved in an arbitration proceeding, common sense suggests that Section 7.3 should only be invoked if other attempts to resolve disputes have failed. We should not arbitrate if we can settle this by other means. As a step in that direction, I would like to be invited to the next FEI annual meeting, which I've heard is an occasion where old and new students meet, and the assembled group is brought up to date on FEI's progress.

At the meeting I would like to make a brief presentation on the aforementioned research that supports Galambos. In addition I would ask you and anyone else who opposes my position regarding the book to publicly make their case. I will listen attentively and with an open mind, and respond in a civil manner. Who knows, you might win me over.

I understand that the annual meeting takes place in mid-year. With that in mind, let me suggest that you respond no later than April 15 so as to allow adequate time for planning and coordination. If you need more time than that, please let me know. If I don't hear from you by that date I will consider that to be an answer of "No" and take other steps to resolve the matter.

Sincerely,

Richard Boren