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**Presentation:**

COPYRIGHTABLE PHOTOS

Presented by Amaury Cruz

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Night Dive at the Bridge on the Little Deeper.

Well folks, for those of you who didn’t make it- you really missed out. First of all, this was one of the best boats we’ve been on! The service was fantastic. Captain Dave and Lynn run a nice ship there, and their divemaster Doug- the best! The marina over there is real nice too. Even has showers to use after the dive. The parking lot is well lit and there was a security guard driving around checking on the cars. Real safe. Lynn had hot baked cookies and pineapple for us. And of course Linda Ianniello and Judy Townsend found the most amazing nudibranchs.

What is this little guy doing up at the Bridge???

It’s a “humbug dascyllus” (Dascyllus aruanus). It’s very common in the Indo-Pacific, but certainly an “exotic” in the western Atlantic. Looks like someone emptied his aquarium in the lagoon. This is the first I’ve heard of a humbug being spotted in the west Atlantic.

This was the report that Lureen Ferretti received when Anne DuPont sent it out for identification from Les Wilks.

A dive buddy of mine Deborah Devers spotted the fish while diving on Saturday, April 25th. She wasn’t sure if it was a juvie damsel fish or a non native one and asked me to take a look. Sunday April 26th, I went back to the location she described and confirmed the world traveling little fish had come from afar! I took a picture and emailed it to Lad Akins and Anna DeLoach from REEF Sunday evening. I received a response back from Lad later that evening and from Anna first thing Monday morning. I was fortunate that I was able to rearrange my work schedule on Tuesday to meet with Peter, a fellow REEF ACT volunteer and Lad to show them where the fish was hiding out.

The entire BHB gang (AKA SFUPS) is VERY HAPPY that the little fellow will be relocated and not destroyed! I have to say, this is the first time I’ve reported a non native fish and was AMAZED how quick the response was and how extensive REEF’s network is for finding a new home for the little guy (he was shipped to an aquarium in Washington DC, until they are able to find a permanent home for him).

REEF is amazing! I’m so proud to be a volunteer for such a great organization!

Lureen Ferretti
After a successful career as a newspaper and magazine writer, editor, and translator, Amaury Cruz graduated with honors in 1991 from Florida State University College of Law, where he was an articles and notes editor of the Law Review. He received book awards (for the highest grades in the class) in International Business Transactions and Comparative Law-The Civil Law Tradition. He also won second prize in the Nathan Burkan Memorial Copyright Writing Competition.

Throughout his career, Amaury has concentrated on intellectual property. He has been lead counsel in federal court in dozens of copyright, trademark, and patent infringement cases as well as numerous proceedings before the Trademark Trial and Appeals Board. Martindale Hubbell has awarded him the highest possible rating (AV) for his ethics and professional skills.

Amaury has published several scholarly pieces, including the award-winning *What's the Big Idea Behind the Idea-Expression Dichotomy? - Modern Ramifications of the Tree of Porphyry in Copyright Law*, as well as numerous newspaper and magazine articles, essays, and other writings. He is the owner of the five-lawyer firm Amaury Cruz & Associates, with offices in Miami Beach and a website at [www.lexarian.com](http://www.lexarian.com). He has been a member of SFUPS for more than five years and won Digital Photographer of the Year in 2007.
COPYRIGHTABLE PHOTOS ARE NOT IDEAS

© Amaury Cruz 2009

The Copyright Act of 1976 explicitly denies protection to “any idea[s],” which are said to be “free as air.” The law only protects the expression of ideas. Thus, only “original works of authorship” are copyrightable. But the originality required of an author is minimal. It is only that the work “originate with the author.” But what is an idea, as opposed to an expression, and when is a photograph not original?

The first case decided by the U.S. Supreme Court involving infringement of a copyright in a photograph involved a portrait of Oscar Wilde taken in the late 1800’s. There, the court found that the photographer, Napoleon Sarony, had given “visible form” to the photographer’s original mental conception by posing Wilde in front of the camera, selecting and arranging the costume, draperies and other various accessories, arranging the subject as to present graceful outlines, arranging and disposing the light and shade, suggesting and evoking the desired expression, and from such disposition, arrangement, or representation, producing the picture. The defendants obtained the negative of this photograph and made and sold the prints. They were found liable to Mr. Sarony.

Most photographers nowadays know that it is a copyright violation to print pictures from someone else’s negative or digital files without permission. But suppose another photographer also had a mental conception of a similar pose, costume, accessories, arrangement of subject, outlines, light and shade, and expression of a subject and independently created a substantially similar picture? Wouldn’t the imitator have the right to his own expression of the same idea?

Not necessarily. The standard for infringement is substantial similarity, not identity of the works. In a modern-day case, a recently graduated photographer by the name of Morello allowed a well-established advertising photographer by the name of Alt to view a set-up Morello had created for an advertisement. Morello depicted a Cross pen and pencil positioned at an angle on a dark grid against a background, with the tips of the pen and pencil in a yellow toned circle lit from below. Morello proudly included this photograph in his portfolio. Alt, meanwhile, imitated Morello’s arrangement, with variations, and published it in source book for photographers. As a result, the photograph became well known. Therefore, when Morello showed his portfolio to potential clients, they thought that he had pirated Alt’s photograph.

Morello sued Alt and won an award of statutory damages even though he could prove no actual damages. Despite the variations (different brand pen and pencil, somewhat different angle, and slightly different shade of yellow) and the fact that Alt had merely appropriated Alt’s idea and created his own independent expression of that idea of the advertisement, he was liable because his photograph was substantially similar to Morello’s.

Because of the issues associated with the idea/expression dichotomy and other aspects of copyright law, a distinguished Supreme Court Justice, Oliver Wendell Holmes, famously said that this is the field of the law that is closest to the metaphysics of jurisprudence. The Morello case and others demonstrate the accuracy of this statement. The courts speak of “levels of abstractions” and “filtering” ideas, and have developed tests such as “fragmented literal similarity” and “comprehensive non-literal similarity” to sort out these issues.

As underwater photographers, however, our main concerns are simple and practical: how can we effectively and economically protect our photos from intellectual property pirates? During this month’s meeting, I will discuss these and other issues, and will provide you with the basic tools to cheaply obtain copyright registrations of your original “works of authorship.”

http://www.copyright.gov/
Outside Contests:

FOR IMMEDIATE RELEASE

SCUBA Diver Australasia’s contest. Deadline coming up end of this month. See below.

http://www.scubadiveraa.com/competition.php

Jun 1 Marmara Festivali, Turkey
http://www.marmarafestival.org/
*Note when you go to this site it is in Turkish, but there is an English conversion button in the upper right corner.

June 11-14, Savannah, GA  Blue Film Festival
Honoring Dr. Sylvia Earle
http://www.blueoceanfilmfestival.org/blueoceanfilmfestival.html

Deadline: June 15, 2009 VIDEO!!!!
Sensational Seas Two issues call for submissions
http://www.sensationalseas.com/sequel.htm
Deadline for consideration is June 15, 2009
The company is hoping to gather “unique video from the marine world, of fish and creatures that are very rare or are behaving in a very unusual way or engaged in a rarely observed behavior.”

We have a number of videographers in our club who’ve shot some incredible footage and really should consider entering their wild behaviors into this.
They are looking for 3 minute entries.

Jul 20 Deadline National Wildlife

National Wildlife® is now accepting entries to our 39th annual contest. Winning photographs will be published online and a selection will appear in the December 2009 issue of the magazine.visit www.nwf.org/photozone.
OUTSIDE CONTEST WINNERS

As result of winning First and Third places at RSMAS, Steve Kovacs and Judy Townsend have been asked for permission to post their images on the National Geographic Website!

RSMAS WINNERS GO TO NATIONAL GEOGRAPHIC > CHECK IT OUT!!!

It’s live--
Thanks to all!

--
Chris Combs
News Photo Editor
National Geographic Digital Media

The Underwater Photographer (third edition) by Martin Edge

This is my review of Martin Edge’s book, “The Underwater Photographer”. It may be entirely different than your assessment of his book based primarily on our different levels of underwater photography experience. For the past few years I have been shooting with a compact digital camera (aka point & shoot). Most recently I upgraded to a DSLR type camera, I wanted a book to help me with my new system. While at Reef Photo I happen to pick up a copy of Martin Edge’s book. It appeared to be the type of book I was looking for. I already understood some of the basic underwater photographic techniques. Now I wanted to expand my knowledge on photographic principals, such as, in the areas of twin strobe positions vs. single strobe, how lens opening effect background water color, as well as, lens and port selections. The book covered almost every subject dealing with underwater photography and the equipment used to obtain the shot along with an explanation on how the author utilized the technique to obtain the result. This is Martin’s third edition of his book. He has expanded coverage of digital photography with pro’s and con’s when compared to film. The book is quite in depth and thorough. If your underwater photography level of knowledge falls between beginner to intermediate this book will be of great help in expanding your knowledge. If your level of experience is advanced to semi-professional most of the information will just reinforce your present knowledge.

***** (five out of five stars).

Steve Jarocki, Jr.
BOOK AHEAD    PAY AHEAD
Payment due at booking. Refunds require cancellation at least one week prior the dive.

MAY 30: Lantana
Starfish Enterprise
5611-212-2954
http://www.idivestarfish.com
limit 12 divers $64.00
7:30 show 8 AM go

JUNE 6: Miami Beach
RJ Diving
http://www.rjdiving.com
305-861-6277
LIMIT 15 DIVERS $70 cash
TENNECO TOWERS AND REEF
ADVANCED CERTIFICATION NECESSARY 1 PM Go

JULY 11, and some are also going JULY 12
BACK BY POPULAR DEMAND! VENICE “SHARK TOOTH DIVE” this is the MOST AWESOME DIVE OPP
http://www.floridawestscuba.com/
941-486-1400
10 am to 4 pm Spend all day diving for the Megaladon teeth! Limit 7 spots Weather Dependent
Cost approx $80 DETAILS TO FOLLOW
Hotel recommendations: Hampton Inn or cheapo Motel 6 - Sharon and Carol are booked for Sunday.

Looking down the road in JULY, AUGUST: BUD & MARY’S-Islamorada
SPASH DOWN-Boynton
QUIESSENCE- Key Largo

Send requests or suggestions to the Bubble Gals Carol or Sharon AKA: “THE BUBBLE BROADS”

4th of July
Safari Diver - Pompano 800-771-3483
10 Divers.. 1 Nite dive & watch the Fireworks or dive 2 times
Price $60 pp
FUTURE
INTRA-CLUB
CONTESTS

MAY
M - Sea Cucumbers
C - Brittle Stars

JUNE
M - Predators
C - Herbivores

JULY
M - Red Algae
C - Sea Grass

AUGUST
M - Teeth
C - Weapons

SEPTEMBER
M - Reflections
C - Beneath the Sun

OCTOBER
M - Haunted Castles
C - Ghoulies

NOVEMBER
M - Fall Colors
C - Lionfish

WINNERS of the INTRA CLUB CONTEST MARCH:
CHALLENGERS: WARNING!

1st Place: Fletcher Forbes

2nd Place: Steve Jarocki

3rd Place: Judy Townsend
WINNERS of the INTRA CLUB CONTEST MARCH:
MASTERS: EYE SPOTS

1st Place: Michael Schmale

2nd Place: Rob Myers

3rd Place: Susan Mears

4th Place: Rob Myers

5th Place: Michael Schmale
### 2009 PHOTO CONTEST RULES

**Digital Files:**
Realizing that some computer adjustments are necessary for digital files, we ask that only minor adjustments be made in the computer. Only minor cropping, color adjustments, backscatter removal and sharpening are allowed. No extreme computer manipulation, removing items or adding items to the image.

- Images will be submitted prior to the meeting so that they can be compiled for easy viewing and judging.
- Image size should be no greater than 1024 pixels on the long side and the file size should be less than 1.4 megabytes. Images should be submitted in JPEG format.
- Each image file name must include your name, month, category, and number. Use “mastr” for Masters Category and “chall” for Challengers category. For example an image submitted by John Doe for the January Challengers contest would be named: JDoe-JanChall-1.jpeg
- Entries must sent via email to Bob Weybrecht at audiovisual@sfups.org the Friday night before the Monthly meeting.

**On-the-Day Contest: Key Largo**

<table>
<thead>
<tr>
<th>Month</th>
<th>Category</th>
<th>Description</th>
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<tbody>
<tr>
<td>May</td>
<td>M</td>
<td>Sea cucumbers – any member of the Class Holothuroidea.</td>
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<tr>
<td></td>
<td>C</td>
<td>Brittle stars – any member of the Class Ophiuroidea except basket stars (family Gorgonocephalidae).</td>
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<tr>
<td>June</td>
<td>M</td>
<td>Predators or predation – an animal in the act of stalking or feeding on another animal</td>
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<tr>
<td></td>
<td>C</td>
<td>Herbivores or herbivory – an animal in the act of feeding on algae or seagrass (e.g. grazing parrotfishes – even if feeding on “dead” or live coral; tangs; plant-eating molluscs)</td>
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<tr>
<td>July</td>
<td>M</td>
<td>Red Algae – any algae of the Phylum Rhodophyta (e.g. crustose corallines, and a huge variety of red to purple or brownish delicate lacy to fleshy seaweeds – mostly small).</td>
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<tr>
<td></td>
<td>C</td>
<td>Seagrass – image must feature seagrass or a seagrass bed as the dominate subject.</td>
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<tr>
<td>Aug</td>
<td>M</td>
<td>Teeth - images must show teeth.</td>
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<td></td>
<td>C</td>
<td>Weapons – any structure used for offense or defense other than teeth (e.g. sea urchin spines, mantis shrimp raptoral appendage, crab “claws”).</td>
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<tr>
<td>Sept</td>
<td>M</td>
<td>Reflections – image must include a reflection of the primary subject.</td>
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<td></td>
<td>C</td>
<td>Beneath the sun – image must contain a sunball, shafts, or rays of sunlight.</td>
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<tr>
<td>Oct</td>
<td>M</td>
<td>Haunted castles – reef or wreck scene with a spooky ambience.</td>
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<td></td>
<td>C</td>
<td>Goulies – any animal that looks ghoulish or frightening.</td>
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<tr>
<td>Nov</td>
<td>M</td>
<td>Fall colors – must include a substantial amount of orange or red.</td>
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<td></td>
<td>C</td>
<td>Turkeyfish aka Lionfish: any fish of the subfamily Pteroinae.</td>
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</tbody>
</table>

TBA: On-the-day contest; digital creations.

*If you are uncertain about what qualifies as an animal or plant category, please consult a reputable guidebook such as Humann/deLoach’s Reef Set. If still in doubt, contact Rob Myers or Mike Schmale well before the contest. They will be happy to clarify this or look at a potential submission to confirm if it fits the category.
My name is Jessica Freeman and I’ve been diving since 2003. I moved down to south Florida in 2004 from Maryland to earn my master’s degree in marine biology, and I currently teach high school science in Hollywood. Most of my diving experience has been in Mexico and here in Broward, and I can’t wait to one day explore the Pacific side of things! I am an extreme novice when it comes to underwater photography, as I only recently became interested in it after seeing the amazing images my fiance, Kirk Kilfoyle, has been able to take. Whenever I get a chance to steal his camera on a dive I do, and I am slowly learning what all the settings do on things that don’t dart away from me too fast. I’m looking forward to learning all that I can from the wonderful people I’ve already met at SFUPS!

NIKONOS V CAMERA EQUIPMENT FOR SALE: or call (954)922-5658

Nikonos V body, 35 mm lens, 4 extension tubes/frames, close up kit, ikelite substrobe MV with arm, carrying case, all instruction manuals and 0-rings/grease. Excellent condition, like new. $750.

Please contact Annette Hawley at annhawl@bellsouth.net

Canon EOS 5D 12.8 MP SLR camera body (with box and all supplied accessories): $1350
Ikelite housing for Canon 5D: $750
Housing and body together: $1950

Canon EOS 20D 8.2 MP SLR camera body (with box and all supplied accessories): $420
Ikelite housing for 20D (needs viewfinder & has other issues - check with seller if interested): $195
Housing and body together: $590

Canon EOS D60 6.3 MP SLR camera body (with box and all supplied accessories): $250
UK-Germany aluminum housing for D60, with macro port and extension rings: $350
Housing and body together: $500

Doug Perrine
76-223 Haoa St.
Kailua-Kona HI 96740 U.S.A.
+1 (808) 329-4523
Parting Shot Photo
by
Amaury Cruz

Amaury Cruz is the SFUPS Featured Photographer for May 2009

Visit the NEW www.sfups.org to see the galleries

So .. have you updated your Gallery?

Your on-line gallery comes with your paid membership.. Take Advantage!

JOIN SFUPS

South Florida Underwater Photography Society
MEMBERSHIP INFORMATION

SFUPS is a Non-Profit Organization promoting interest in Underwater Photography. Meetings are held the second Tuesday of each month (January - November) at 7:30 p.m. at the El Palacio Hotel (formerly Holiday Inn- Pro Player), 21485 N.W. 27th Avenue, Miami

Annual Dues are $35.00 (individual), $45.00 (family) and $20.00 for “Out of Area” non-participating members. Dues are payable each January. After June 1st, dues are prorated to 1/2 of the above rates for new members only.

A Membership form must be filled out, signed and returned along with payment, a copy of your C-card and dive insurance. Make checks payable to SFUPS and send to: 359 Cottonwood Lane, Boca Raton, FL 33487. Membership forms can be found on our website at www.sfups.org and will also be available at the meetings.