

## Federal Court Grants Carter Ledyard's Motion to Dismiss Federal Lawsuit Claiming Ownership of Iconic Artwork On the Basis of the "Probate Exception"

**October 03, 2018**

On September 28, 2018, U.S. District Judge Alison J. Nathan granted a motion to dismiss a federal lawsuit against CLM clients the Estate of Madeline Gins, its executors, and the Reversible Destiny Foundation. Judge Nathan adopted the 33-page report and recommendation issued by Magistrate Judge Barbara Moses determining that the iconic artwork "The Mechanism of Meaning" by Shusaku Arakawa, and the intellectual property in that artwork, is under the legal control of the executors of the Estate of Madeline Gins and within the "custody" of the New York probate court, and therefore any dispute over ownership must be litigated in the New York Surrogate's Court.

Carter Ledyard & Milburn LLP sought dismissal of a federal lawsuit claiming ownership of the work and associated intellectual property rights based on the "probate exception" to federal jurisdiction and failure to allege registration of copyright, among other grounds. Carter Ledyard attorneys Gary D. Sesser, Judith Wallace, Melissa Erwin and Madelyn White represented the Estate of Madeline Gins, its executors, and the Reversible Destiny Foundation in seeking dismissal of the lawsuit.

The Report and Recommendation is available [here](#) and the final District Court order is available [here](#).

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