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With a deep base of knowledge and extensive experience in the New York art world, our team advises clients on the many complex issues that arise from the creation, purchase, sale, and disposition of artwork and art collections. We help clients navigate the art market and advise on transactions and due diligence, which can be challenging under the best of circumstances.

Clients who rely on us for advice and dispute resolution include artists, their estates, art collectors, art galleries, art dealers and advisors, and artist-established foundations that own art or are otherwise active in the art market in private and public art transactions. We counsel them on the myriad issues that arise when art is bought, sold, licensed, inherited, or donated, such as title and authenticity questions, auction house consignment terms, damage and valuation.

Clients whose art collections comprise part of an estate plan turn to us for tax advice as well as for options on disposition and fiduciary duties, as do clients needing guidance on the income and estate tax ramifications of lifetime gifts of art to museums, charities, and private individuals. Our lawyers frequently counsel art merchants, artists, and artists' estates with respect to their rights and obligations under New York's Arts and Cultural Affairs Law.

In addition, our team advocates for both buyers and sellers in litigated and non-litigated disputes over the authenticity, ownership, and value of works of fine art, licensing and infringement of copyright. We represent owners in conflicts with custodians and insurers over valuation of losses for lost and damaged artwork, and we defend experts against claims stemming from their opinions in art authentication and attribution issues.

Why Our Experience is the Right Fit

We keenly understand how issues attached to valuable works of art can at times seem overwhelming, especially to those with a once-in-a-lifetime asset or dispute. Our team draws on includes attorneys from the trusts and estates, tax exempt organizations, tax, and intellectual property law groups, allowing us to support our clients' needs fully while staffing cases efficiently, providing first-rate legal services at reasonable fees. By pinpointing pivotal issues, we resolve issues early on and reduce the risk and expense of disputes.

Our Innovative Approach

Our familiarity with art transactions and dispute resolution, coupled with exceptional depth and experience in trusts and estates and tax-exempt organizations, provides us with unique capacity to address issues relating to art.

New York, New York: Ownership disputes with a potential connection to New York often turn on the questions of whether and how New York law applies, in part because of New York's claimant-friendly statute of limitations for ownership claims, and the duties imposed on art merchants under the New York Arts and Cultural Affairs Law. Highly regarded for having obtained landmark decisions in art law, our team is a sound choice for those looking for the highly knowledgeable and specialized counsel necessary to reach successful outcomes.

Global Context: At the same time, New York art transactions are increasingly transnational. Our familiarity with these rapidly evolving requirements allows us to help resolve conflicting expectations with respect to personal information privacy and increased transparency in art transactions. Through our membership in the Meritas legal network, we are well-placed to resolve issues involving parties and conduct around the world.

A Will and a Way: Our team works with artists and collectors, helping them to plan for disposition of collections that may involve special challenges due to size and complexity, or unique characteristics of the art assets, and with planning how artwork will be handled in their estates. This can include consideration of minimizing tax penalties and disputes among family members, protecting the artist's legacy and vision, and responsible stewardship of important works of cultural heritage.

Proven Strengths

The Art Law practice provides a variety of services that fall in the juncture of the art and legal worlds, including:

- Helping clients make decisions about the substance and structure of the agreements by which ownership of artwork is transferred, including contractual warranties, representations regarding authenticity and provenance, condition reports, and licensing of images of copyrighted artwork;
- Advising clients on formation of foundations, and on legal issues arising from management of art assets, as well as the full range of legal issues associated with management of tax-exempt organizations, including obligations with respect to grants and charitable programs, regulatory and tax compliance, and dealings between foundations and their officers and other insiders;
- Counseling artists on safeguarding of intellectual property rights, including copyright registration and trademark applications, and enforcement of rights against infringement in the U.S. and overseas.
- Guiding consignors and buyers at public auction with respect to provisions of the auction house consignment agreements, and warranties of authenticity and title;
- Representing art merchants, artists and artists' estates with respect to their rights and obligations under New York's Arts and Cultural Affairs Law, which establishes distinctive and non-waivable rights for artists;
- Providing sophisticated tax advice to owners on the role of their art collections as part of an estate plan, and on the income and estate tax aspects of lifetime gifts of art to museums, charities, and private individuals.
- Advising clients contemplating gifts and loans of art to cultural institutions to ensure that the donation is exhibited, used, and acknowledged in accordance with a donor's wishes;
- Assisting clients evaluating related non-legal services including appraisals, conservation, and investigations.

Representative Experience

- Successfully persuaded the New York Court of Appeals to reverse a unanimous Appellate Division decision and to reinstate the summary judgment of the Surrogate's Court awarding ownership of *The Cry*, a monumental Jacques Lipchitz sculpture, to our client, a Canadian art collector. *Mirvish v. Mott*, 18 N.Y.3d 510, 942 N.Y.S.2d 404 (2012).

- Obtained summary judgment in favor of the renowned artist, Robert Indiana, creator of the iconic LOVE sculpture, dismissing Lanham Act and contract claims asserted by an art publisher who claimed the right to produce and sell, as works of Robert Indiana, artwork depicting the Hindi word for “Love” in both the Hindi and English alphabet. This case involved issues relating to how much artist involvement is required to represent sculptures as authentic works of the artist. *Gilbert v. Indiana*, 2012 WL 688811 (S.D.N.Y. 2012) (Judge Katherine B. Forrest). Secured dismissal of related claims by collector in *Tovar v. Indiana*, No. 11 Civ. 776 (DAB), 2011 WL 5423161 (S.D.N.Y. Nov. 8, 2011) (Batts, J.) and *Tovar v. Indiana*, 2013 WL 182749 (S.D.N.Y. 2013) (Judge Katherine B. Forrest).
- In claim brought by Christie’s against dealer for return of sale proceeds years after sale, secured determination that standard for warranty of authenticity by art dealer under New York law is reasonable basis in fact at the time of sale. *Christie’s Inc. v SWCA, Inc.* 2008 NY Slip Op 28450, 22 Misc 3d 380 (Sup. Ct. N.Y. County Sept. 12, 2008).
- Obtained dismissal of federal lawsuit claiming ownership of an iconic artwork by Shusaku Arakawa, and associated intellectual property rights, based on the “probate exception” to federal jurisdiction. *Architectural Body Research Foundation v. Reversible Destiny Foundation*, 17-CV-7748 (S.D.N.Y. Aug. 24, 2018) (report and recommendation of magistrate), (S.D.N.Y. Sept. 28, 2018) (adopting report and recommendation of magistrate).
- In lawsuit by artist against former gallery to recover consigned artwork, secured determination that prints that were approved and signed by artist were consigned works owned by the artist, not property of art gallery that arranged for printing. *Scher v. Stendhal Gallery*, 117 A.D.3d 146 (1s Dep’t 2014).
- In *Sculpture Park LLC v. Cynthia-Reeves Projects*, represented an artist’s studio in JAMS arbitration against a gallery to recover proceeds from the sale of a sculpture and obtained a substantial settlement.
- Obtained summary judgment finding a former employee liable for breach of a severance agreement by assisting in litigation against artist-established foundation, and ordering the employee to return the severance payment and pay the attorney fees incurred in defending the lawsuit. *Reversible Destiny Foundation v. Post*, Index No. 657477/2017 (Sup. Ct. N.Y. County Jan. 29, 2020) (Kennedy, J.).
- For an artist-established foundation objecting to the sale by a third party of artwork that had been spirited away from the foundation, obtained dismissal of tort claims against the foundation, and permission for the foundation’s ownership claim to proceed. *Reis Family 1995 Trust v. The Lachaise Foundation et al.*, Index No. 155112/2018 (Sup. Ct. N.Y. County Jan. 8, 2020) (Nock, J.).