

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

**August 27, 2018**

In a 33-page report and recommendation issued on August 24, 2018, Magistrate Judge Barbara Moses determined 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. U.S. District Judge Alison J. Nathan will decide whether to accept Judge Moses's recommendation and dismiss the federal case. 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 decision is available [here](#).

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