

## Judith Wallace

Partner

Managing Partner



### contact

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Clients say they appreciate the richness and depth of my experience in dispute resolution as well as my collaborative approach to problem solving. I thoroughly explore with clients the pros and cons of the full range of options, and assist them in choosing the best path forward. If the optimal course of action is litigation or arbitration, then I am a strategic and tough advocate for their interests.

Representing art collectors, artists, foundations, galleries and scholars, Judith Wallace advises clients in matters of art ownership, authenticity, commissions, consignment, sales, valuation and copyright.

She also advises public agencies and private parties on permitting and compliance under state and federal environmental laws and advocates in environmental, project development, and general commercial matters in state and federal courts.

In addition to advising on transactions, Judith manages litigation and alternative dispute resolution relating to these issues, as well as disputes arising out of nonprofits, duties of fiduciaries and directors, and probate matters.

With her practice centered on the New York City area, Judith also counsels clients from across the country and around the world who have connections to projects or transactions here. Those she represents value Judith's clear-eyed approach to legal issues, the respectful, inclusive way she treats them, and her appreciation of

cost concerns. Her clients also reap the benefits of the firm's highly regarded and nationally known tax-exempt organizations and trusts and estates practices and the synergy and efficiency they produce with the art law practice.

Judith's litigation experience informs the counseling aspect of her practice because she can anticipate frequently thorny issues, identify and quantify risks, and negotiate transactions accordingly. In the course of her career, Judith has litigated significant cases concerning the responsibilities of galleries to artists and collectors.

Widely recognized for her deep well of knowledge about and extensive experience in the art law field, Judith frequently makes presentations and publishes articles and other works on the subject. She has been honored by Super Lawyers® since 2012.

## Experience

- **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 return of the severance payment and payment of 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.).
- **Obtained dismissal of tort claims** concerning foundation's objections to the proposed sale of a monumental sculpture entitled "Garden Figure" by Gaston Lachaise owned by the foundation, but lost when it was spirited away from the Salander-O'Reilly Galleries in 2007. The sculpture re-surfaced with a dealer who disclosed his plans to exhibit the sculpture and offer it for sale for \$1.2 million on behalf of a purported buyer from Salander, a trust controlled by Dina and David Reis. The Reis trust responded by bringing tortious interference and fraud claims against the foundation. The New York State Supreme Court dismissed those tort claims for failure to state a claim, denied a cross-motion by the Reis trust for a declaration that it owns the sculpture, and allowed the dispute over ownership 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.). [View the Decision](#).
- **Defeated motion to dismiss in Surrogate's Court**, New York County, holding that CLM client Radio Drama Network's challenge to a revocable trust stated viable, timely claims for fraud, fraudulent concealment and undue influence against Richard Kay, estate lawyer to legendary radio producer Himan Brown. Accordingly, Radio Drama Network's challenge to Kay's revisions to the revocable trust, which deprived Radio Drama Network of a \$100 million bequest by diverting it to a new charity controlled by Kay, could proceed. Matter of the Application of Radio Drama Network, Inc., Seeking Relief Regarding the Himan Brown Revocable Trust Created by Himan Brown, Grantor, 2010-2056-A (Surr. Ct. N.Y. County July 15, 2019). [For more, see here](#).
- **Obtained unanimous affirmance on appeal of challenge** to enforceability of severance agreement that prohibited the former employee from assisting in a lawsuit against the former employer. The Appellate Division, First Department unanimously held that the employee who accepted, and did not return, a severance payment was prohibited from challenging that agreement on any theory. *Reversible Destiny Foundation v. Post et al.*, 2019 NY Slip. Op. 05225 (1st Dep't June 27, 2019).
- **Secured a unanimous decision in the Appellate Division, Second Department**, holding that a law firm was prohibited from representing a doctor suing CLM's client, a not-for-profit hospital, because a hospital board member was a partner in the law firm that sought to represent the plaintiff, and the board member received confidential emails on his law firm email account concerning the matter at issue in the dispute. See Matter of Blackman, File No. 371737, 2017-12975, 2018 N.Y. Slip Op. 06528 (2d Dep't Oct. 3, 2018).
- **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. The court held that both the artwork and the intellectual property in that artwork are under the legal control of the executors of the estate of Arakawa's spouse, 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. *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 2017, 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.
- In 2017, represented a private foundation in *Surrogate's Court litigation* to recover artwork and archives that were retained in violation of the terms of gift and loan agreements and successfully recovered a substantial portion of the artwork and archives.
- In 2017, represented a foundation created by a major American artist in securing the turnover of infringing artwork that copied portions of the artist's paintings.
- 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).
- Obtained summary judgment against Sunoco, Inc. in a federal breach of contract action for a purchaser that acquired oil storage tanks from Sunoco, pursuant to a sale agreement that required Sunoco to be in compliance with applicable environmental laws and state license requirements, and subsequently discovered that the tanks were improperly modified. Judge Thomas P. Griesa of the Southern District of New York granted summary judgment on the issue of liability, holding the purchaser was entitled to indemnification of up to \$4.125 million from Sunoco for the costs of repairing the tanks. *Superior Plus v. Sunoco Inc.*, No. 13 Civ. 7740, 2004 U.S. Dist. LEXIS 75086 (S.D.N.Y. June 2, 2014) (Judge Thomas P. Griesa).
- Won dismissal of two federal securities and commodities act lawsuits against a family of hedge funds and their advisors on the ground that the relevant transactions were not "domestic" in nature, even if some defendants were regulated entities located in the United States and there were other U.S. contacts. These two decisions – *Starshinova v. Batratchenko*, 2013 WL 1104288 (S.D.N.Y., Mar. 15, 2013) (Judge Kimba M. Wood) and *Loginovskaya v. Batratchenko*, 2013 WL 1285421 (S.D.N.Y., Mar. 29, 2013) (Judge J. Paul Oetken), redefine the applicability of federal commodities law to international financial transactions in light of the U.S. Supreme Court's decision in *Morrison v. Nat'l Austl. Bank, Ltd.*, 130 S.Ct. 2869 (2010). Successfully argued the appeal of the *Loginovskaya* decision, which was affirmed by the Second Circuit in September 2014. *Loginovskaya v. Batratchenko*, 2014 WL 4358439 (2d Cir. 2014).
- 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 a related claim against artist Robert Indiana brought by a Monaco art dealer who had purchased the so-called "English Prem" works that were at issue in *Gilbert v. Indiana*, described above. Successfully moved to remove a case that was initially filed in Maine state court to federal court in Maine, and then successfully moved to transfer to the federal court in the Southern District of New York, where it was decided by the judge who previously dismissed claims relating to the same artwork in *Gilbert v. Indiana*. *Tovar v. Indiana*, 2013 WL 182749 (S.D.N.Y. 2013) (Judge Katherine B. Forrest).
- In claim against artist, obtained dismissal on grounds of lack of federal diversity jurisdiction, because aliens were on both sides of controversy. *Tovar v. Indiana*, No. 11 Civ. 776 (DAB), 2011 WL 5423161 (S.D.N.Y. Nov. 8, 2011) (Batts, J.).
- 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 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).

- Represent artists, artists' estates, foundations, authentication boards, collectors and dealers in disputes over ownership, authorship and authenticity of artwork in state and federal courts; in art sales; in loans and gifts to cultural institutions; and in resolving insurance disputes relating to loss or damage.
- Represent state agencies, public energy authorities, and private parties in environmental impact review pursuant to the National Environmental Policy Act and State Environmental Quality Review Act and other environmental, historic preservation, and related state and federal statutes for conventional and renewable energy generation and other development and infrastructure projects.
- Litigation in state and federal courts of environmental, antitrust, and general commercial matters.
- Represent clients in arbitration and in judicial challenges regarding arbitrability of disputes.

## Publications

- Judith Wallace and Ed McCoyd, Estate Planning for Artists: How to Plan and Protect your Legacy, *New York State Bar Association, Entertainment, Arts and Sports Law Journal*, Vol. 36, No. 1 (March 6, 2025).

## Presentations

- Estate Planning for Artists: How to Plan and Protect Your Legacy, *NYSBA's Entertainment, Arts & Sports Law Section* in collaboration with *The Bishop Gallery*, September 17, 2024.
- Art Law 201: Online Sales and Copyright in the Virtual Art Arena, *American Bar Association CLE*, with Alexandra Darraby and Emily Behzadi, March 25, 2021.
- Speaker, Art Law 2021: Online Sales and Copyright in the Visual Art Arena, *American Bar Association*, March 25, 2021.
- Speaker, Dispute Resolution in the Art World, *Court of Arbitration for Art (CAfA)*, November 19, 2020
- Speaker, Legal Issues for Artists, *New York City Bar Association*, May 3, 2018.
- Speaker, Art Law 2018, Due Diligence Challenges in the Art Market and the Impact of Anti-Money Laundering Regulations, *Lawline*, April 13, 2018.
- Speaker, Smart Art Collecting, *Gerald Peters Contemporary*, May 5, 2017.
- "Siting of Solar Energy on Former Municipal Landfills," *New York Federation of Solid Waste Associations*, May 4, 2009

## Outside the Office

I'm an ambitious cook, and run and hike. I also spend a lot of time working with my deaf rescue dog.

## Practices

Environmental and Land Use  
Litigation and Disputes  
Fiduciary Litigation  
Art Law

## Admissions

### Bar Admissions

New York

### Court Admissions

U.S. District Court for the Eastern District of New York  
U.S. District Court for the Southern District of New York  
U.S. Supreme Court

## Affiliations

Member, The Association of the Bar of the City of New York  
Energy Committee, Secretary 2006-2009

Member 2006-2010

Art Law Committee, Member 2017-2020, 2024-Present

Arbitrator, Court of Arbitration for Art, The Hague, The Netherlands

Chair, Meritas Global Firm Management Forum, 2024-Present

Member, 2022-Present

Member, Meritas Board of Directors 2023-2025

## Education

Georgetown University Law Center (JD, *cum laude*, 2005)

New York University (BA)

## Awards/Honors

*The Best Lawyers in America*® 2021-23

*Super Lawyers*®, 2013-2024

*Super Lawyers*® – “Rising Star,” 2012