

## **Supreme Court Asked to Consider Legal Status of Famous Picasso Painting Sold by Escapees of Nazi Persecution**

In a petition for certiorari filed today, the U.S. Supreme Court has been asked to consider whether New York's Metropolitan Museum of Art must return a Picasso masterwork, "The Actor," which was previously owned by a Jewish couple forced to sell the painting at a steep discount to fund their escape from Nazi persecution.

The case centers on the federal Holocaust Expropriated Art Recovery Act of 2016 (HEAR Act), which is designed to help facilitate the recovery of art and other prized possessions unlawfully lost because of Nazi persecution.

Paul and Alice Leffmann enjoyed a flourishing and prosperous life in Germany, but the growing persecution of Jews forced them to flee in 1937. They immigrated to Italy, but due to the growing Nazi influence there, the Leffmanns were forced to leave the country in 1938. To fund their escape to Switzerland, they sold "The Actor" at the fire sale price of \$12,000. The painting was later resold and eventually donated to the Met in 1952. The masterpiece is now valued at more than \$100 million.

Laurel Zuckerman, the Leffmanns' great grand-niece, filed suit in 2016 against the Met after unsuccessfully demanding that the museum return "The Actor." In the suit, Zuckerman asserts that the museum cannot be the rightful owner of the painting because it was sold under duress at a price far below its actual value. She seeks to recover the painting on behalf of the estate of Alice Leffmann, the sole heir of Paul Leffmann.

A New York federal court dismissed the suit. On appeal, the U.S. Court of Appeals for the Second Circuit affirmed the lower's court judgment but on different grounds. Applying the doctrine of "laches," the Second Circuit ruled that the family had waited too long to assert its right to the painting.

In her petition, Zuckerman asks the Supreme Court to review the case because it raises an issue of nationwide importance that affects an estimated 100,000 Nazi-era art and property claims. "Burying these claims in procedural technicalities and preventing them from being heard on the merits, as The Met has urged, upends the HEAR Act and rewards those who benefited from the spoils of Nazi policies and persecution."

She underscores that the HEAR Act, which sets a six-year statute of limitations to bring claims to recover Holocaust-era artworks, deems timely those claims that existed when the Act was enacted in December 2016, including Zuckerman's. As Zuckerman emphasizes in her petition, Supreme Court precedent holds that statutes of limitations enacted by Congress (like the one created by the HEAR Act) trump the doctrine of laches in determining the timeliness of a claim.

The Second Circuit's decision "flouts both the [HEAR] Act's plain language and this Court's precedent," Zuckerman stated in the petition.

Haynes and Boone, LLP Partner M.C. Sungaila, who represents Zuckerman in the case before the Supreme Court, said: "This case raises nationally important and fundamental issues about an act of Congress and our justice system's treatment of Holocaust art claims. We look forward to the Court deciding these issues, both for our client and the many families that survived the Holocaust."



In connection with the filing of the cert petition, Zuckerman said: “I have been fighting for many years on behalf of the heirs of Alice Leffmann against a very powerful museum that has an important painting that rightfully belongs to Alice’s heirs, and I will continue to do so until justice is finally achieved.”

Zuckerman was represented in the trial court and continues to be represented on appeal by New York based Herrick, Feinstein LLP.

Haynes and Boone, LLP is an international corporate law firm with offices in Texas, New York, California, Charlotte, Chicago, Denver, Washington, D.C., London, Mexico City and Shanghai, providing a full spectrum of legal services in energy, technology, financial services and private equity. With more than 575 lawyers, Haynes and Boone is ranked among the largest U.S.-based firms by *The National Law Journal*, *The American Lawyer* and *The Lawyer*. It also ranks among the nation’s most recommended law firms by general counsel, according to BTI Consulting Group’s “Most Recommended Law Firms 2019” report.