



HERRICK

# Art Law



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Herrick's clients benefit from our firmly entrenched position in the art market, our decades of experience collaborating with the industry's important stakeholders, and the depth of our experience handling art-related concerns in every legal discipline, including corporate law, litigation, tax, insurance, intellectual property, white collar crime, real estate, and trusts and estates.

## Commercial Art Transactions and Counseling

Our clients include museums, galleries, auction houses, dealers, artists, collectors and other clients, who we counsel on a full range of business concerns. Frequently, we advise on the purchase, consignment, sale and auction of major works of art. Our experience in art restitution enables us to help clients navigate through the problems inherent in acquisitions and sales of artwork with uncertain provenance. While we handle public and private transactions of all sizes, our work in this area includes several of the industry's biggest, including Neue Galerie's acquisition of *Portrait of Adele Bloch-Bauer I*, and the Christie's sale of Pablo Picasso's *Nude, Green Leaves and Bust*.

### Areas of Focus:

- art purchases, consignments, auctions and sales
- organizing public and private exhibitions
- authentication and attribution concerns
- insurance issues
- creation of art-related business entities
- loans of significant objects of art and art collections
- copyright and VARA-related issues
- international trade issues, including treaty, export/import and customs matters
- complex tax and estate planning matters

### Representative Matters:

- Represented Neue Galerie New York in its historic acquisition of Gustav Klimt's painting *Portrait of Adele Bloch-Bauer I*, also known as *The Woman in Gold*. At the time it was reported to be the most valuable painting ever sold.
- Represented The European Fine Arts Foundation (TEFAF) in the creation of TEFAF's New York Fall 2016 Art Fair.
- Represented the heirs of noted Russian avant-garde artist Kazimir Malevich in numerous auction sales over the course of 15 years, including the \$60 million sale of *Suprematist Composition* (1916), which set a world record for Russian art.
- Represented the Estate of Frances Lasker Brody in the historic sale of its art collection at Christie's in 2010. The highlight of the sale was a Picasso masterwork, *Nude, Green Leaves and Bust*, which sold for a then auction record \$106.5 million.
- Represented a private art collector in one of the largest transfers of Mesoamerican art to a museum, including the assumption of the operations of the collector's foundation dedicated to the study and advancement of Mesoamerican art.
- Conducted an internal investigation on behalf of an internationally recognized art gallery concerning the authenticity of certain paintings bought and sold by the gallery.



Kazimir Malevich, *Suprematist Composition* (blue rectangle over purple beam) 1916, Oil on canvas 88 x 70.5 cm., Collection of the Heirs of Kazimir Malevich

## Art Finance

Members of Herrick's Art Law Group are preeminent advisors in the field of art finance. We are adept at handling the full range of art-based financings, including loans supported by a gallery or dealer's inventory, as well as art loans originated by niche asset-based lenders. We also helped to forge the market for private bank facilities secured by the collections of high and ultra-high net worth collectors. We continue to be leaders in this evolving field – in 2015 our team worked on many significant loans supported by gallery and dealer inventories, as well as nearly \$1 billion in loans originated by private banks and specialty art lenders, secured by the art of high-net-worth collectors.

### Representative Matters:

- Represented the private wealth management group of one of the nation's largest financial institutions in an asset-based loan facility to an art gallery, secured by several artworks.
- Represented entities affiliated with a collector in a \$150 million syndicated credit facility from three private bank lenders, collateralized by an extensive art collection located in museums, galleries and warehouses across the world.
- Represented a major financial institution in a term loan to a New York art gallery, secured by the gallery's assets, as well as artworks from the gallery owner's personal collection.
- Represented the Geneva division of a major U.S. bank in a \$100 million secured revolving credit facility, secured by a portfolio of artworks owned by a Cayman Islands trust.

## Tax

Herrick's attorneys are well versed in the unique aspects of taxation related to art transactions. We have represented collectors and galleries on all aspects of their art transactions, including purchases, sales, loans, and the charitable giving of works of art and regularly advise on the structuring of "1031" transactions and the creation of private museums. We also have been involved in the creation of tax-free exchange agreements involving works of art. For non-U.S. citizens who, directly or indirectly, own art connected with the U.S. we can explain and implement techniques to avoid or minimize U.S. estate and gift taxes.

## Litigation, Disputes and Restitution

Our art litigation practice is broad-based, ranging from basic contract disputes to complex domestic and international actions. We are recognized throughout the world as leaders in the art recovery area. We have successfully resolved recovery claims on behalf of foreign governments, museums, the heirs of Holocaust victims, the heirs of famous artists and other claimants. Through our work, thousands of lost and stolen art and antiquities have been returned to their rightful owners. We also handle a variety of cases dealing with trademark and copyright infringement, defamation, moral and visual rights, breach of warranty, misattribution, white collar criminal concerns and government investigations and other issues.

### Representative Matters:

- Represented Apollo Global Management co-founder Leon D. Black in an international dispute over the ownership of Pablo Picasso's *Bust of a Woman* plaster sculpture.
- Represented the estate of Jewish art dealer Lea Bondi Jaray in one of the first cases to focus the world's attention on the significant Nazi-looted art problem. The case concerned the theft of Egon Schiele's *Portrait of Wally* by a Nazi agent. We achieved a very favorable \$19 million settlement for her heirs with the Leopold Museum.
- Represented a client in art fraud litigation in the U.S. District Court, Southern District of New York, involving Mayfair dealer Timothy Sammons.
- Represented a collector in the settlement of a dispute over a Claude Monet painting in the collection of the Metropolitan Museum of Art claimed to have been stolen from a bank vault during the Soviet occupation of Berlin in 1945.
- Represented a major British contemporary artist in shutting down U.S. based websites that displayed unauthorized copyrighted images and offered to make unauthorized reproductions of his works.
- Represented a private collector in recovering a collection stolen from an art storage facility and dispersed throughout the United States, and beyond, including Japan. We worked with the FBI Art Crime Task Force and the U.S. Attorney's Office for the Eastern District of Missouri, helping to recover the majority of the collection.
- Representing Marei von Saher in litigation to recover two important artworks from the Norton Simon Museum of Art in Pasadena, California. The iconic life-size paintings, *Adam* and *Eve* by Lucas Cranach the Elder, were among the most important artworks in Jewish art dealer Jacques Goudstikker's collection, which was looted following the Nazi invasion of the Netherlands in 1940.

**HERRICK'S ART LAW GROUP** is one of the world's most prominent art and cultural property law practices. We regularly handle a broad range of notable corporate and commercial art law matters and high stakes art litigation and disputes.

**KEY CONTACTS:**



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**AREAS OF FOCUS:**

- Art purchases and sales, consignments and auctions
- Use of art as collateral for loans
- Art finance and investment funds
- Intellectual property transactions and disputes
- Litigation from resolving contract disputes to complex domestic and international actions
- Issues of title and authenticity
- Art recovery claims
- Trusts and Estates and tax planning
- Art loans for exhibitions
- Dispute resolution on art insurance matters



Herrick, Feinstein LLP