

How These Art Lawyers Struck Out On Their Own

By Rachel Rippetoe

Law360 (July 20, 2023, 4:54 PM EDT) -- Lawrence Kaye and Howard Spiegler have been practicing "art law" since before they knew to call it that. They've helped recover stolen paintings from centuries ago and represented sovereign nations and heirs of famous artists and art dealers, but their most exciting venture in the last few years might be starting a law firm of their own.

Kaye and Spiegler, who started the art law group at midsize New York firm Herrick Feinstein LLP, left the firm to start their own boutique, Kaye Spiegler PLLC — focused on art law — at the start of 2021.

With just four lawyers, the firm has taken on cultural property disputes, art restitution and other litigation and transactional matters related to the art world, including representing the heirs of a 20th-century abstract artist in a suit against the Philadelphia Museum of Art and seeking to recover numerous pieces of art for the government of Turkey.

Law360 Pulse caught up with Kaye and Spiegler to discuss the unique area of law and how they built their practice. This interview has been edited for length and clarity.

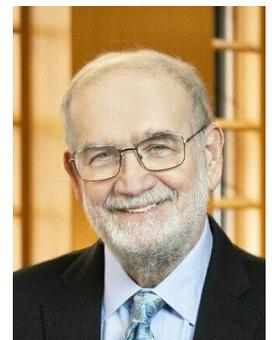
How did you get into art law?

LK: When I was a second-year associate at another firm called Botein Hays & Sklar, I was assigned to an art litigation to recover two Durer paintings that had been stolen by an American soldier during World War II. That case went on for some 10 years and that's how I cut my teeth in art law. Howard joined that firm a few years later. And so we both worked on that under the mentorship of a fellow named Harry Rand, who was a brilliant lawyer.

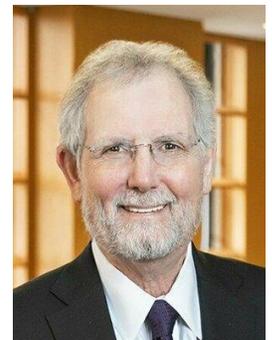
HS: I walked in and I was told to go see Harry and Larry about a case involving paintings that had been taken during the war and were being claimed by a museum in East Germany. And I was given a research project that had nothing to do with what I learned in law school. I was thrown into the fire pretty quickly, but it was an amazing and interesting inauguration into this area.

How did you build this specialty into a full practice area at Herrick?

LK: When Botein unfortunately closed its doors after 100 years in 1990, Harry and I went to Herrick, and



Lawrence Kaye



Howard Spiegler

we started the practice there again. As it grew, Howard came back and joined us four years later. And that's how the art group at Herrick took shape. Harry passed away a while later, and we continued to grow and expand the group at Herrick, not only to do litigation, but also to do transactional art matters. And we basically pride ourselves on doing everything there is to do in connection with artwork.

HS: It was an interesting journey because we started out representing sovereign nations like the Republic of Turkey in recovering antiquities that had been looted and then appeared in museums like the Metropolitan Museum of Art, and we had several cases like that. And then eventually, when the world's focus zeroed in on the recovery of Nazi-looted art, it was a natural fit for us to get involved in some of the major cases. And that led to a long period of involvement in those kinds of cases.

And once we started winning these restitution cases, our clients occasionally would come to us and say, "OK, I've now recovered these artworks. I want to sell them. What do I do?" We contacted the corporate lawyers whom we trusted at Herrick, and their response was, "Well, these are all art matters. We're not sure we have familiarity with how these work." And Larry and I realized that we are really the experts in dealing with the auction houses and galleries and all the rest with respect to the purchase and sale of artwork. So it was a natural transition for us to expand our practice into a substantial transactional practice as well.

And then what made you want to go from running your own practice group at a mid-sized firm to hanging out your own shingle?

LK: As Herrick grew, it became clear that starting our own boutique made a lot of sense. It would give us more autonomy. When you have contingencies and high-risk cases, having a bureaucracy decide whether you're going to take them or not take them becomes a little bit difficult. So we would decide what cases we take and decide on contingencies, and we can also focus more on our clients, being totally devoted to them in a small group. But we remained not only friendly with Herrick, we use Herrick's back office for everything we do, and we do a lot of work with them on both litigation and transactional matters.

HS: Larry and I've spoken at panels all over the world. We've written for publications. So we were independent with respect to the substantive practice.

Was it challenging to go from having a more recognizable name behind you to having to rely on your own reputations independently?

LK: We spent a lot of time building the brand at Herrick, so Herrick was the brand. Now we had to reidentify ourselves as a new brand as Kaye Spiegler, which we've been doing. People know us, and so it wasn't hard to do that, and I think people appreciated the fact we went out and instead of moving to a bigger firm, we were our own boutique and focusing solely on cultural property law.

HS: Several people who know us well, once we announced that we had this firm, their reaction was, "Well, that makes sense. It's about time." Which was interesting and we appreciate it. Also, the two counsels who are with us now, who are excellent lawyers and have been around for a number of years, are getting their own reputation. So it's not just Larry and me who people may say, "Well, how long are you guys going to be doing this?" Although the answer is, of course, forever. But we have younger people who are really willing and able to continue the work that we start.

How has the art law world changed since you started practicing in that area?

LK: When we started back in 1970 and became art lawyers, we didn't know we were art lawyers. If you looked it up in the law directory, you wouldn't find anyone who practiced art law, including us, even though that's what we'd been doing. So we were the pioneers, but there are many people who do it now in the U.S. and in Europe and other places.

We think that makes us stand out a bit among newcomers to the field, many of whom are very good lawyers, but we think we have a history and a level of experience that is different from most others.

What was it about that first case that made you stick around in the art world for all these years?

LK: It's funny, I don't think Howard or I had a real background in art. But the case was so fascinating. And though it was an art law case, it involved very interesting theories that you don't learn in law school. There are complicated intellectual challenges, and you accomplish something when you try to recover property that was stolen. That was so attractive for both of us, we became hooked.

HS: And with every case, there is the artwork. Whether it's a remarkable antiquity that was dug up out of the ground after thousands of years or an amazing painting by Egon Schiele which changed the history of art. In the middle of the night, when you're working out legal theories and trying to decide how to litigate, you can sit back and look at the subject involved in the case. And you say, this is really remarkable and terrific.

Do you have a favorite piece of art that you've helped recover?

HS: For me, we handled one of the first cases involving Nazi-stolen art, and it was the "Portrait of Wally" (U.S. v. Portrait of Wally) case where we were working to recover a painting by Egon Schiele. I'm embarrassed to say that I didn't know very much about Egon Schiele at the beginning of this case. I know a lot about him now, as well as many other Austrian expressionists, and it was eye-opening and really terrific to see the works that he had done and how the world was not very interested in his work at first. They found it objectionable. Many considered it pornographic. Especially at the beginning of the 20th century. But let's say he grew on people and became such an important and famous artist. [Schiele's painting was the personal property of Jewish art dealer Lea Bondi Jaray, but was taken by a Nazi art dealer before she fled to London to escape from Nazi-occupied Austria. Spiegler and Kaye worked on litigation with the U.S. government beginning in 1999 to recover the painting for the Bondi Jaray Estate. The case settled for the full value of the painting in 2010.]

LK: We represented the heirs of Kazimir Malevich, who basically started modern art in Russia. That was a huge family, and we had to find the heirs all over the world and recover very substantial artworks from Malevich that were sold at auction for as much as \$80 million. Suprematism, which was what he did, was totally foreign to us and learning about Suprematism and the history of modern art and how it started was fascinating, as well as representing the actual heirs of the artists and getting to know them. We still have good relationships with some of them. [Suprematism refers to abstract art based upon "the supremacy of pure artistic feeling" rather than on visual depiction of objects.]

And the other one is Marei von Saher, who's the heir of Jacques Goudstikker. Jacques was one of the most important art dealers in the Netherlands at the time World War II started. After he fled and died, many of the artworks that had been stolen by the Nazis before he left had been returned to the Dutch government. Many years later his daughter-in-law renewed the fight, and we were able to recover over

200 very important pieces of old masters of art. That was a fascinating experience. ... Even after we recovered them, we went all over the country to different museums exhibiting many of them. It's not what a normal lawyer usually does and it's very fulfilling.

HS: It's ironic, but the Nazis treated two kinds of art differently. One, they considered traditional work like the old masters to be Germanic in nature and therefore seized them for their own because they liked them. On the other hand, the impressionists/expressionists, abstract painters, they considered degenerate and contrary to the Aryan ideal that they were fomenting. For those, they seized them to get rid of them. So we were exposed to both kinds of artwork just within the area of Nazi-looted art, which was pretty amazing.

Which one's your favorite?

HS: (laughing) I like both.

You mentioned galleries and exhibits all over the world. Do you find yourself going to art museums on your own for fun or does it just feel like work at this point?

LK: We can go to museums and look at the art we haven't recovered yet.

HS: I think we've both developed a great appreciation for it, such that we can be found in museums, even looking at artworks that aren't involved in our cases. Though they get nervous when we come. (Laughs)

Obviously the reclamation of Nazi-looted art is a huge part of your practice, but have other reclamation issues come up in the years beyond World War II?

LK: Well you should know that there's still Holocaust art litigation in many places where families discover that their art has been for many, many years in collections, even museums. But there are more hot-button issues right now. The return of Colonial art obviously is a new issue that has been confronted, particularly in Europe, but now beginning in the United States. Museums are returning Colonial art to the countries of origin. And NFTs and that whole space, where there's a lot of involvement in art transactions.

HS: But even in the Nazi-looted art area, experts still say that there were as many as 100,000 pieces of art that were looted and have not been recovered. We get hundreds of calls on a regular basis from people whose family lost out during the war. Sometimes that's all they know. And it does not necessarily form the basis of a lawsuit right away. But there's a lot of looted art from that era, even though it's been 80 years since the events occurred that led to the looting.

--Editing by Karin Roberts.