

## Art and Cultural Property

During the past 15 to 20 years, forces of change have been transforming the way courts view legal disputes over stolen art and cultural property—a change in which Andrews Kurth art lawyers have played a major role. Decades of secrecy by sellers and lax due diligence by buyers—including museums and collectors—is giving way to better market practices and more transparency and responsibility by museum boards of directors. Andrews Kurth's art litigation practice has been at the center of these changes, and our art lawyers are able to assist clients with a wide range of art collector, museum, institutional, corporate and commercial art law matters.

Much of the recent transformation has grown out of the trend toward returning stolen artworks to rightful owners in cases where the loss resulted from:

- Organized theft by the Nazis from Jews and others in Germany and in conquered countries during World War II
- Theft by Allied soldiers from art collections in Allied-occupied Germany and liberated countries after the War
- Illegal removal and export of cultural artifacts from foreign countries
- Looting of antiquities from archeological sites around the world

Andrews Kurth's art law and art litigation capabilities in handling art restitution cases and broader aspects of art and antiquities law in U.S. courts are extensive. Led by our Washington, DC office partner Thomas R. Kline, we have represented the interests of numerous clients from Europe and North America, including:

- Government and quasi-governmental institutions
- Museums
- Churches
- Foundations
- Families and private individuals

### Complex Issues/Inconclusive Evidence

We have the experience and knowledge to deal with even the most complex art and cultural property law issues. Our lawyers have handled art restitution litigation in which both sides have conflicting documentation that is not conclusive, as well as cases where the documentation of an art transaction does not adequately convey the circumstances under which a transaction took place—such as when targets of the Holocaust had to sell family artwork at any price to survive.

Because the law generally leaves art theft victims to their own devices, forcing them, in effect, to find and recover their own art, we have developed extensive capabilities to evaluate such claims whether for an art buyer or seller, a claimant, museum or a collector. Many families of Holocaust victims (or other World War II claimants) have limited records or photographs of pre-War ownership and lack the resources to conduct a worldwide search for their possessions, finding themselves in need of our art restitution services.

We understand the difficulties of such an undertaking, particularly when (as in the great majority of cases) the art law issues are complex, and the art is not of great value. We can advise how best to press or defend claims and whether to settle them. Our experience at trial, in negotiations and in structuring creative settlements reflects our skill at:

- Evaluating adequate proof of initial ownership
- Demonstrating whether a theft did take place
- Dealing with the disparate state statutes of limitations (from two years in some states, to New York's statute of limitations, which does not begin to run until a demand for return of an object is refused) and their relation to the longer periods allowed by European law
- Working with FBI and Customs Enforcement officials and the ongoing changes in the way they approach art recovery controversies

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### Authoritative Practice

With more than 30 years of litigation and dispute resolution experience, Tom Kline has focused for roughly 20 years on cases involving stolen art, other art law issues, antiquities law, cultural property issues and related ownership issues. He co-teaches a seminar on the topic at The George Washington University, Museum Studies Program and has written and spoken frequently on the subject of art restitution, museum and cultural property law and litigation (including a statement in 2000 at a hearing held by the Presidential Advisory Commission on Holocaust Assets in the United States). In honor of his art recovery work on behalf of various German cultural organizations, in 2001 Mr. Kline was awarded the Officer's Cross of the Order of Merit of the Federal Republic of Germany (Das Verdienstkreuz des Verdienstordens).

### High-Profile Art Restitution Practice

Our art lawyers have resolved some of the highest profile art litigation disputes of the past two decades. Acting on behalf of major cultural and religious organizations, and often working with well-known international investigators, to ensure that evidence is found and considered concerning all legal requirements of ownership claims, Andrews Kurth lawyers have played a major role in the recovery of:

- The Kanakaria mosaics, Byzantine mosaics that were stolen from a Greek Orthodox church in the Turkish-occupied area of Cyprus. Andrews Kurth lawyers represented the Republic of Cyprus and the Autocephalous Greek-Orthodox Church of Cyprus and recovered the mosaics from an Indiana art dealer by establishing that our clients' search for the stolen art satisfied the diligence requirements of the state's statute of limitation on theft. Several articles were published in *The New Yorker* and other publications about this case. A book was also written about this case, *Goldberg's Angel* by Dan Hofstadter.
- The Quedlinburg Treasures, medieval jeweled objects and manuscripts that were stolen by an American Army officer whose unit guarded the site where the Lutheran Church of St. Servatius in Quedlinburg, Germany hid the Treasures at the end of World War II. The soldier had mailed the objects to Texas, and we secured the objects through a temporary restraining order issued in a federal court action and then settled the case from a position of strength, after discovery revealed the pattern of thefts by the officer. This case was also heavily reported at the time and is the subject of *Treasure Hunt* by William H. Honan.
- Valuable drawings stolen from the Kunsthalle Bremen, a private art museum in Germany, during Russian occupation in the closing days and immediate aftermath of World War II. A federal district court in New York supported our motion for summary judgment and ordered a Russian refugee who had tried to sell the drawings to return them to the museum.

### Expanding Capabilities

Our work representing claimants in art recovery cases has proved to be the foundation of a growing capability to advise and assist American museums and collectors in the proper handling of cases in the art recovery area. We recently helped a major American art museum and several collectors respond to Holocaust claims and have crafted settlements in which museums retained the right to display objects as part of an overall resolution of the original owner's claims. We have also begun working with borrowers and lenders who wish to use artwork as security for loans.

We frequently advise museums, cultural officials and individual collectors on the importance of documenting their collections and on gathering and preserving existing documentation for any object where questions of origin may arise. Because museums have complex issues of fiduciary and stakeholder responsibility far beyond those of most collectors, our efforts to assist them can also involve Andrews Kurth's extensive experience in corporate and nonprofit organization governance.

### Unsurpassed Strength

Few areas involve more factual, legal or emotional challenges than art, cultural property and antiquities law and litigation, and we believe we have acknowledged strength in dealing with them. The passage of time, the scarcity of definite documentation, and the emotional issues of family history are all considerations that our lawyers constantly balance.