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Art Law May Be the Next Big Thing in Texas

BY BRENDA SAPINO JEFFREYS

Art law is in vogue.

More and more law firms across the country are launching art law practice groups, and lawyers who specialize in areas that range from litigation to finance are adding some color to their careers by taking advantage of opportunities in the growing practice of art law.



Thomas Maddrey,
Maddrey PLLC, Dallas.
Handout

Dallas, in particular, has seen growth in the legal market involving art. Locke Lord established an art law practice group about a year ago, and Thomas Maddrey, a photographer-turned-lawyer, opened a small firm in late 2015 that counts art law as one of its main practice areas. Other Texas firms that have art law practices include Thompson & Knight and Andrews Kurth Kenyon.

But Texas is hardly alone.

"It is certainly a formalized and well-settled practice in Los Angeles and New York City,"



Stuart Bumpas, of Locke Lord, standing next to an Andy Warhol painting at the firm's offices in Dallas, TX. April 5, 2017.

Courtesy photo

said Michael Heinlen, a partner at Thompson & Knight in Dallas who is in the firm's art law section.

Indeed, law firms in the nation's major art markets have had done art law for years. But in Dallas, the practice area now appears to be taking off. "The entertainment and sports section of the Dallas Bar recently became the entertainment, art and sports section of the Dallas Bar," Heinlen said.

Stuart Bumpas, a Locke Lord partner in Dallas who heads the firm's art law practice, agrees. "It's a burgeoning field," he said. "More and more people are not only collecting, but they are investing in art, and they need advice."

Bumpas has handled legal work for the Dallas Museum of Art for 40 years and has had clients in the art world since shortly after he joined Locke

Lord in 1974. But the firm saw a steady increase in the amount of art-related work coming its way, prompting the Dallas-based firm to launch an art law practice in early 2016.

“The reason we established the art law group was to...serve the more unique needs of the art industry,” Bumpas said.

Other firms, including several in Texas, have become savvy about the need for more lawyers serving the art world. More of their clients are enormously interested in art—either for investment purposes or for its esthetic—so the firms are formally establishing or expanding their art law practices, he said.

Art law incorporates lawyers from many practices. Bumpas’s specialty is tax law, but others in his firm’s art law practice include lawyers who specialize in not-for-profit governance, intellectual property, estate planning, financial transactions and litigation. The clients are also varied, and include museums, universities and other cultural institutions, financial institutions, galleries, foundations and art collectors.

When Bumpas started organizing Locke Lord’s art law group, there was a great deal of interest throughout the firm. The 25 members of the group practice are based in a variety

of locations, including Dallas, New York, Boston, Austin, New Orleans and London.

The type of work performed by lawyers doing art law also varies. Locke Lord has represented major financial institutions that provide loans to high-net worth individuals that are secured by art collections. Lawyers at the firm also handle litigation. Bumpas and a partner are currently working on a lawsuit that involves a significant donation of Impressionist and other art to a museum.

Lawyers also have negotiated lines of credit for art purchases. At Locke Lord, they have worked with a university on the donation of rare materials from the Bauhaus Movement in Germany, and they represent the Affordable Art Fair New York City—a citywide art fair for “starving artists.” Bumpas is also working with a major art auction house on a series of webinars that will be produced later this year.

Thomas Kline, who spent many years building an art law practice at Andrews Kurth, (now Andrews Kurth Kenyon), said an art law practice fits well in a big firm with wealthy clients.



Attorney Thomas R. Kline of Cultural Heritage Partners. Courtesy photo

“It is a specialty that can be marketed to firm clients, particularly to high-net worth clients,” said Kline, who is now a partner at Cultural Heritage Partners in Washington, D.C.—a firm that specializes in legal issues surrounding historic preservation, art and antiquities. “Traditionally collectors have not worked closely enough with lawyers in building their collections or maintaining them, so they often have problems they are not aware of.”

Many lawyers who do a lot of art law say they got into it by happenstance. Joe Patella was an associate with Andrews Kurth Kenyon in New York when he started helping Kline with an art-related lawsuit in New York. Patella said Kline became a mentor, and he continues to do art law.

Patella, now a partner, said Andrews Kurth represents auction houses, museums, galleries, individual collectors and even foreign governments. He recently helped the owner of a San Francisco gallery recover a Buddha statue that was stolen from his gallery more than two decades ago. In addition, he represented an auction house that was accused of fraud by a collector who bought a painting at auction and discovered many years later it was a fake. Patella won a motion for summary

judgment for his client in that case.

It's not surprising there's a lot of litigation stemming from art purchases, Patella said. "When someone is making a transaction for a million[dollars] at a corporate level, there's going to be reams and reams of paper. For the same amount...it could be a single slip of paper—an invoice—for art."

Thompson & Knight's Heinlen said collectors are also realizing more and more that they should consult lawyers. "These are people who spend literally millions of dollars on a handshake," he said. "That is starting to change, but historically there have been no contracts in the art market."

Kline said that during his 28 years at Andrews Kurth, he made an effort to build up a practice in art law litigation because of his interest in art and because the suits are fascinating. His first two clients were churches trying to retrieve stolen religious objects, he said. In one case, which became the subject of a documentary called *The Liberators*, he represented a church in Quedlinburg, Germany, and helped it recover medieval religious artifacts stolen by a U.S. Army officer who had mailed the artifacts home to Texas after World War II.

But not all art-related lawsuits make good fodder for filmmakers. Joe Sirven, a partner with Holland & Knight in Miami, does art lending. He represents lenders, mostly based in New York, who provide loans collateralized with art collections. He said most of the loans are in the \$30 million to \$50 million dollar range, but he worked on one valued at more than half a billion dollars. He is not at liberty to discuss 99 percent of those loans, he said, but he noted that one loan, issued around 2010, financed a luxury condominium project.

Sarah Hewitt, a New York and Philadelphia-based partner at Schnader Harrison Segal & Lewis and co-chair of the firm's art law practice group, said she does a lot of lending that is secured by fine art, although the firm also does art law litigation. "As the art market exploded, so did the finance area on modern and contemporary art in particular," she said, explaining that her clients lend to collectors and galleries who are trying to leverage their investments.

For all the variety that exists in the practice of art law, there appears to be one constant: Lawyers who do art law either have a longtime interest in art

or they develop one. Heinlen is a former art history professor. Kline was exposed to art from an early age, as his late mother, Harriet Kline, was a sculptor and painter known for using shredded U.S. currency in her work. Hewitt minored in art history in college and always wanted to work in the art world. Maddrey worked as a commercial photographer for 10 years before going to law school—a career that inspired him to help artists and photographers protect their copyrights.

Then there's Bumpas, the tax lawyer, who said art law got into his blood after he started working as outside counsel for the Dallas Museum of Art many years ago. He has become an art museum devotee who has a preference for the Old Masters but also enjoys contemporary and Impressionist art. He admittedly spends a lot of his time in art museums.

"The Reina Sofia in Madrid is my favorite," he said. "I also love the Louvre, and Prado and The Met in New York."

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