

AUTHENTICATION  
IN ART

## Last Call Authentication in Art 2018 Congress

There is a limited number of seats left for the AiA 2018 Congress, 7-8-9 June, The Hague. Don't miss this last chance to register!

The AiA Congress 2018 will focus on Connoisseurship, Technical Art History and Guidelines, Art & Law, Material Science and Authenticity issues: case studies.

Attendees of the Congress will receive a free copy of *'The Scientist and the Forger'* by Jehane Ragai, Emeritus Professor of Chemistry at the American University in Cairo.

Attendees also receive an exclusive copy of *Technical Art History: A Handbook of Scientific Techniques for the Examination of Art Works*. The Handbook contains information about 50 techniques, their applications, limitations and history, which are all presented in a concise way to be used as reference for the experts and lay-men alike. The Handbook was compiled by the Authentication in Art 2018 Workgroup on Technical Art History with the help of outside contributors.

Register now to receive these publications and attend amazing talks!

The AiA Congress program:

<http://www.authenticationinart.org/congress-2018/congress-program-2018/>

AiA Congress Registration:

<http://www.authenticationinart.org/congress-2018/congress-registration/>

## Global Centre of Excellence for resolving Art Disputes planned for The Hague

When Mr Justice Buckley said in 2002:

*“However I may regard my own taste or appreciation of things artistic, I must not presume an expert’s eye for van Dyck...”* he was right to acknowledge the judicial temptations and nuances thrown up when courts are faced with disputes in the art world.

Legal systems vary worldwide. Marked differences exist between common law jurisdictions, Civil Codes and Federal & State laws. Dealing with these diverging procedures and approaches head on, the Authentication in Art Foundation (AiA) in collaboration with The Dutch Institute for Arbitration (NAI) has developed a centre of decision-making excellence for the art world: “Court of Arbitration for Art “(CAfA). The development of CAfA was led by William Charron (Partner, Pryor Cashman LLP, New York and Advisory Board member of Authentication in Art) in conjunction with an international group of litigation, arbitration and mediation specialists.

The formal launch of CAfA will take place on 8 June, 2018 during the Authentication in Art 2018 Congress, 7-8-9 June, held at the Louwman Museum, The Hague.

CAfA will provide arbitration and mediation services for the full spectrum of art disputes, including but not limited to authenticity, contract, copyright claims and title disputes. With courts available in all countries to hear art disputes, the cry might go up as to why this should be needed. Charron explains: *“The idea behind CAfA was to flatten the learning curve by having experienced art-lawyer practitioners be the deciders. Those practitioners should be better equipped to understand and weight the evidence in a manner that the market will accept.”*

Nicola Wallace, Barrister and Mediator, Art ADR Global, London confirmed: *“This is an unprecedented venture. CAfA has been created to serve the international art world and global cultural institutions. At its heart will be a worldwide database of seasoned and internationally recognised experts, judges, arbitrators and mediators who can all be called upon to address the wide-ranging, often complex multi-party issues arising when matters of art and cultural heritage fall into dispute. Awards in arbitration will be enforceable worldwide. Parties can be entirely confident of expertise and certainty in the process.”*

A particularly unique facet of the CAfA is the independent role of experts during the CAfA procedures. Although the parties will be free to retain their own testifying experts on many issues, in authenticity disputes the tribunal - not the parties, -will

appoint its own forensic and provenance experts from an internationally recognized pool.

Luke Nikas, Quinn Emanuel Urquhart & Sullivan, LLP, New York commented *“The idea is to give the most comfort possible to the market that authenticity decisions are based on truly neutral expert analysis.”*

Dr Friederike Gräfin von Brühl, K& L Gates LLP, Berlin commented: *“In many art disputes, the evidence of an expert witness is pivotal to resolution or final decision-making by a tribunal. That expertise necessarily comes in many varied forms: historical, technical, connoisseurship & provenance and auction house and art world buying and selling processes. There exists no one dedicated centre where one might bring such claims and no single pool of international experts, judges, arbitrators and mediators specialised in the field. This leads to variance in approach, variances in applications of principles and variances in decision-making. As such, the market is not much assisted by recorded decisions. It does not have to be this way.”*

And if disputes arise in a variety of jurisdictions or on a different continent, there is no problem. Arbitrations or mediations, whilst ‘deemed seated’ in The Hague, can be conducted anywhere in the world. Filippo Pettini, Fosters LLP, London commented: *“This is an exciting development for the art world. The rules and procedures of the NAI are adopted and adapted to ensure the tribunal is fit for purpose on every level in this highly specialised area.”*

The CAfA is not simply intended for use by private collectors, galleries and auction houses. Both private and State museums, as well as bodies tasked with the management and movement of antiquities and cultural objects can benefit from alternative dispute resolution away from the public gaze. The identity of the parties will remain completely confidential. An important aspect however is in matters of arbitration, the art work or subject matter of the dispute will be identified. As Megan Noh, formerly Vice President & Legal Counsel for Bonhams, now partner, Cahill Law, New York explains: *“This was deemed essential to ensure market understanding and acceptance of the results.”*

Charron confirmed: *““This specialized tribunal is custom-made for art law issues and disputes. It honours the principles of reliability, efficiency, privacy, while also yielding precedential arbitral decisions that the art market should be willing to accept. We anticipate CAfA will become the art world’s venue of choice.”*

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