

# Purchasing Art in a Market Full of Forgeries: Risks and Legal Remedies for Buyers

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**Abstract:** Since the first lawsuit against the Knoedler Gallery was filed for selling forgeries, the art world has been abuzz with stories of high-end fakes. However, forgeries are not a new phenomenon. The law of supply and demand dictates that there will be no end to the rising value of artworks done by the hands of “masters.” And with soaring market prices, art forgery will proliferate as forgers find incentive in skyrocketing sales. At the heart of forgery disputes is the determination of authenticity. Who makes these determinations? How does the market and legal world handle a battle of experts? Moreover, what remedies are available to disappointed buyers? The best method of protection is to complete due diligence; however, the process is often complex and expensive. Even after completing due diligence, it is possible for buyers to be left with sophisticated fakes. What legal remedies are available to buyers?

## I. A (VERY) BRIEF HISTORY OF THE MARKET FOR ART FORGERIES

Since the first claims against the prestigious Knoedler Gallery were filed in 2011 for knowingly selling forgeries,<sup>1</sup> authentication has come to the forefront of the art world. During a time in which the art market is flooded with forgeries, it is essential for buyers to complete due diligence before purchasing art to ensure that they do not fall victim to forgery schemes. In the unfortunate instance that a collector is duped into purchasing a forgery, the legal remedies outlined below are available to aggrieved buyers.

Forgeries are not a new phenomenon, for they have grown in prevalence over the past four centuries as the importance of authorship has increased. Authorship gained significance during the Renaissance.<sup>2</sup> During that period, people began

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believing that artists injected something of themselves in their works. Buyers no longer desired art, but a work by a recognized “artist.” And with increasing values associated with well-known artists, the number of forgeries increased due to economic incentives. It is during the Renaissance that forgeries enter the market in full force. The redistribution of the world’s wealth after the Middle Ages ushered in a demand by a prosperous mercantile middle class for art objects.<sup>3</sup> Guilds of master artists and students churned out art to fill this ever-increasing demand.<sup>4</sup> This period of time witnessed the increasing size of the art market, as art became a commercial commodity.<sup>5</sup> Conveniently, the sale of state and ecclesiastical art collections created new markets in which art is not purchased directly from the artist,<sup>6</sup> but rather from dealers, galleries, and auctions, creating an opportune time for forgers to saturate the market with fakes. Although common for centuries, by the nineteenth century the presence of forgeries was recognized as a major phenomenon, and by the twentieth century the distinction between the original and a copy became stark,<sup>7</sup> particularly in terms of economic value and record-breaking sale prices.<sup>8</sup>

The art market was on fire during the twentieth century, and the past couple decades have been full of blockbuster sales. Some of the most expensive works of art have been sold during this period.<sup>9</sup> In fact, the increasing value of art has introduced a new wave of investment products for art objects.<sup>10</sup> During the past few decades, the news has been full of front-page headlines reporting the exorbitant prices realized at auction: “*The Scream* Scares Up \$120 Million and Shatters Records at Sotheby’s Epic Impressionist and Modern Sale”;<sup>11</sup> “Giacometti Sculpture Sells for Record \$104 Million”;<sup>12</sup> “Relentless Bidding, and Record Prices, for Contemporary Art”;<sup>13</sup> “Why Francis Bacon Deserves to Beat *The Scream*’s Record-Breaking Pricetag.”<sup>14</sup>

With headlines like these, it is no wonder that the world’s attention has focused on the art market and valuable artworks. Who could ignore the value of these soaring sales? Clearly this reality has not escaped the notice of forgers. As art prices surge, so does the incentive to forge. Now the art market is at a juncture where forgeries comprise a major portion of the market.<sup>15</sup> The number of forgeries are unknown (particularly because the inherent nature of a fake is that its true identity is unknown and often goes undetected), but European law enforcement agents opine that as much as half the art on the international market could be forged.<sup>16</sup>

As the art market expanded so too did the practice of connoisseurship, as collectors turned to experts to lead them with their purchases. Today’s conception of art forgery emphasizes the notion that originals possess certain qualities absent even in the best copies. This framework requires the existence of an expert with a unique ability to distinguish between the two. The emergence of professional connoisseurs coincided with the rise of forgeries.<sup>17</sup> The relationship is circular: as prices escalate, the need for a connoisseur’s opinion rises; and as connoisseurs vouch for works and their authenticity, the works are more coveted, leading art market prices to soar even higher.<sup>18</sup>

## II. THE FRONT PAGE LEGAL BATTLE OVER AUTHENTICITY

One very well-known connoisseur, Bernard Berenson, collaborated with art dealer Joseph Duveen who is credited with expanding the market for Renaissance art and creating some of the greatest collections in the United States by selling European works to wealthy Americans.<sup>19</sup> These two men had a secret agreement that provided Berenson with proceeds from sales of works that he authenticated.<sup>20</sup> Berenson and Duveen faced legal issues during their practice together, most famously in a legal dispute brought by André Hahn, related to a Leonardo da Vinci attribution. In *Hahn v. Duveen*,<sup>21</sup> Judge Black astutely observed the absurdity of the art market and connoisseurship. In 1920, André Hahn, the owner of a painting, sued Duveen. She sued for slander of title, claiming that Duveen's disparaging statements about the painting damaged her by terminating her negotiations with an art gallery.<sup>22</sup> Ms. Hahn believed that the painting was by the hand of Leonardo. When a newspaper called Duveen for his opinion, the dealer stated that the work was not by da Vinci.<sup>23</sup> This statement triggered a highly publicized nine-year legal battle and four-week trial. Shockingly, Duveen never saw the work, neither in person nor in a photo.<sup>24</sup> He reasoned that the real work with the same title (*La Belle Ferronniere*) was not in the US, but in the Louvre; therefore, the Hahns could not possibly have an original. Duveen stated that the Hahns' certificate of authenticity was fake and that their painting was not by Leonardo. Duveen's statements rendered the work nearly worthless and unsaleable.

At trial, two questions were presented: (1) Were Duveen's statements false? and (2) Was this statement made with actual malice? To show actual malice, Hahn would need to prove that Duveen either had knowledge that his statement was false or that he made the statement with reckless disregard to its falsity. Essentially, to win her case Hahn needed to prove that Duveen made a false statement. But with Berenson as Duveen's partner, this was a tremendous hurdle. How could André Hahn disprove the expertise of the world's best known art expert and his partner? As the case progressed, both parties relied on expert testimony related to scientific evidence and historical documents about the work. Equally qualified experts disagreed on the attribution.<sup>25</sup> Judge Black recognized the difficulty inherent in Hahn's burden of proving that Duveen made a slanderous statement. He writes, "in order for a plaintiff to recover, she must prove that her property is what she claims it to be, because until she establishes the genuineness of her own property she cannot prove that defendant's statement."<sup>26</sup> Not surprisingly, the result was a hung jury.<sup>27</sup> Duveen filed a Motion to Dismiss which was ultimately denied; while awaiting retrial, the parties settled.<sup>28</sup>

*Hahn v. Duveen* is a cautionary tale for art experts and art collectors, and is interesting for the judge's insightful observations about the art market, valuation, and authenticity. Judge Black's opinion harshly critiques the art market and the processes used by connoisseurs.<sup>29</sup> He refers to experts as those "who claim to have a sixth sense which enables some of them after they have seen a picture even for five

minutes to definitely determine whether it is genuine or not.” He also warned the jury, “An expert is no better than his knowledge. His opinion is taken or rejected because he knows or does not know more than one who has not studied a particular subject....Because a man claims to be an expert, that does not make him one.” Judge Black summarizes the case, “the real point is whether a dealer or an expert, however famous...can, without seeing a picture, declare that it [the painting] is not the product of a certain master.”<sup>30</sup>

Judge Black’s insights are just as astute today. The thing about a sixth sense is that it is unexplainable, it cannot be questioned or cross-examined and without any type of definitive and objective standard, how can someone disprove the expertise of a well-known expert? Equally qualified experts often disagree on attribution.<sup>31</sup> An owner with any authenticity doubts may be hesitant to sell a work out of fear that he will be later sued for circulating a forgery and then implicated in a criminal fraud matter. In cases where a work cannot be definitely authenticated, the art remains in limbo. Once art collectors become aware of the time-consuming nature and exorbitant costs of litigation, it becomes clear that they should complete extensive due diligence prior to making a purchase. In fact, with some purchases for extremely expensive art, it may be advisable for clients to hire multiple experts to complete research to ensure authenticity.

### III. THE TWENTY-FIRST CENTURY LEGAL BATTLE OVER AUTHENTICITY

The modern forgery case that sent the art world into a tailspin, *Lagrange v. Knoedler Gallery*, was filed against the well-known New York gallery in late 2011.<sup>32</sup> The Knoedler Gallery traces its origins to 1846, when French dealers opened a gallery branch in New York.<sup>33</sup> On 1 December 2011 well-known Belgian hedge fund manager and financier Pierre Lagrange alleged that the Knoedler Gallery was selling forgeries.<sup>34</sup> Lagrange purchased an untitled Jackson Pollock painting from the gallery in November 2007 for \$17 million. Although not listed in the artist’s catalogue raisonné, the gallery assured Lagrange that the painting would be included in the newest supplement.<sup>35</sup> However, when the collector attempted to sell the work at auction, Sotheby’s and Christie’s rejected it. At that point, Lagrange hired a forensics company to test materials in the painting. The results suggested that the work was not done by “Jack the Dripper,” as anachronistic elements were found in the painting—there were pigments in the painting that had not been available prior to Pollock’s death.<sup>36</sup> Lagrange provided this information to the Knoedler Gallery on 29 November 2011. The next day, the gallery announced its closing.<sup>37</sup>

According to Lagrange’s complaint, the gallery and its former president, Ann Freedman, knowingly sold multi-million dollar forgeries.<sup>38</sup> Following Lagrange’s filing, a stream of other buyers filed against the gallery.<sup>39</sup> The gallery initially claimed the works were real,<sup>40</sup> but through the legal proceedings, a complex fraud was uncovered. The FBI was brought in, and it was revealed that the gallery sold

approximately forty forged works supplied by Glafira Rosales.<sup>41</sup> Her story was simple: she was a dealer, selling never-before-seen works for her client who had inherited the paintings from his father and insisted on anonymity.<sup>42</sup> Once investigators delved into her past, the story unraveled.<sup>43</sup> Rosales was not associated with a major art collector, but rather, she was working with a forger to create forgeries.<sup>44</sup> According to a federal grand jury indictment, the painter made sixty-three forgeries over the course of twenty years.<sup>45</sup> Rosales admitted that from about 1996 until 2009 she “falsely represented authenticity and provenance” on works sold as being by the Abstract Expressionists,<sup>46</sup> and she is facing criminal charges for those actions, with the possibility of ninety-nine years of imprisonment.<sup>47</sup>

From the outset of the gallery’s demise, Ann Freedman has asserted that she was unaware that the works were fake. But is this a reasonable and credible defense?<sup>48</sup> Victims of the scheme claim that Freedman was cognizant of authenticity issues, but concealed them. It is alleged that Freedman knew of problematic forensic testing results, but the gallery rejected those experts’ conclusions and withheld that information from potential purchasers.<sup>49</sup> Moreover, Freedman actively avoided certain experts from fear that the works would be rejected.<sup>50</sup> In fact, the federal district court in Manhattan rejected a motion to dismiss two lawsuits against Freedman, Rosales, and the Knoedler Gallery.<sup>51</sup> Judge Gardephe stated, “The complaints also plead facts more broadly demonstrating that Freedman likely knew... that her statements were false.”<sup>52</sup>

Pierre Lagrange and the Knoedler Gallery settled for an undisclosed amount in October 2012, ten months after he initiated litigation in December 2011. But not all of the other lawsuits brought against the once prominent gallery and its former president have been resolved.

One disturbing aspect of this case is the gallery’s role in the sale, and the concern that this type of behavior is wide-spread in the art market.<sup>53</sup> How could the gallery have overlooked such glaring problems with provenance? How could collectors blindly believe a dealer, even one at a well-known establishment? And even more troubling is the way in which Ann Freedman, an art market professional with decades of experience, did not recognize troubles with the works, or even worse, assisted in the sale of problematic paintings. Moreover, why hadn’t collectors completed due diligence before making major purchases? Just as forensics testing after the purchases revealed anachronistic elements in the works, the same testing could have revealed problems in the paintings prior to sales. Furthermore, other works from Rosales’ forger are most likely still on the market. Buyers must be cognizant of problematic works on the market and so should protect themselves from these purchases by completing due diligence. The Knoedler Gallery matter was cut and dry: a gallery had been knowingly or innocently involved in a scheme selling high-priced forgeries to well-known clients.<sup>54</sup> The forger and middleman were identified and a list of forged works have been provided to the FBI. But not all forgery cases are so clear.

## IV. DUE DILIGENCE

To protect collectors from schemes like the Knoedler Gallery fiasco, it is necessary that buyers complete due diligence. As the art market is one of the largest (if not *the* largest) unregulated markets,<sup>55</sup> what can owners do to protect their investments? It is essential that clients conduct their own authentication investigation by completing due diligence prior to a purchase in order to avoid forgeries sold at galleries like the Knoedler Gallery. There are 3 types of authentication procedures available to buyers.<sup>56</sup> Authentication has been likened to a three-legged stool which relies on three prongs, bearing the weight on each leg: (1) forensics, (2) provenance; and (3) connoisseurship.<sup>57</sup> Art market professionals, such as art attorneys and trusted art advisors, can direct clients to reputable experts in each of these areas.

### *Forensics*

The first prong, forensics, is the scientific testing used to delve into a work's authorship.<sup>58</sup> This area is in constant flux as it changes with developing technology.<sup>59</sup> Scientific analysis includes testing of materials, such as paint samples and canvas fibers. Forensics includes tools such as Raman microspectroscopy, x-ray diffraction, scientific photography, radiocarbon dating, thermoluminescence, and fingerprint analysis. Scientists also use histograms (a schematic representation of rectangles whose area is proportional to the frequency of a variable and whose width is equal to the class interval) to statistically examine paintings based on the composition and pixilation patterns.<sup>60</sup> And not only can the paints from a work be tested, but forensic scientists will test fibers from canvases, paper and watermarks on drawings, stray hairs from paint brushes, and even fingerprints that may be embedded in the work.<sup>61</sup>

All of these examinations help to pinpoint whether a work was made at the time and place that the seller claims or whether the materials post-date a particular artist. The appeal of scientific testing is that technology's ever-changing advancements allow professionals to examine authenticity from a more objective and scientific vantage point.<sup>62</sup> Whereas talented forgers may fool art experts, modern science provides a way to analyze art based on its chemical composition.<sup>63</sup> However here also is its limitations. Forgers are aware of scientific testing methods, and they scheme to find ingenious ways to escape the detection of skilled forensic experts.<sup>64</sup> Likened to an arms race, it can be difficult to remain apprised of technology used by forgers and their detectors.<sup>65</sup>

### *Provenance*

The second authentication prong is provenance. Simply put, provenance is a history of ownership.<sup>66</sup> The provenance of a work of art is important because it helps establish authenticity, historical importance, and legal title.<sup>67</sup> The chain of ownership

from the original artist to the current owner is an important aspect of authentication and is viewed on the art market as persuasive evidence of a work's authenticity.<sup>68</sup> To build a provenance, art historians and investigators examine a totality of records, including sales receipts, auction and dealer catalogues, artists' records, museum records, catalogues raisonnés, and any other historical resources that can trace the work's ownership and location history. Some of the work in developing a provenance report is serendipitous, as in cases where an object was captured in an old family photograph or a newspaper clipping.<sup>69</sup> The strongest provenance is that which can be traced, without any gaps, back to the artist.<sup>70</sup> A strong provenance provides a buyer with assurance that the work is authentic. In addition, a good provenance adds value to a work as it provides collectors with security that the work was most probably not stolen or forged.<sup>71</sup> Courts have recognized the importance of a work's history. Examining a work's ownership history enables the legal system to make title and authenticity determinations.<sup>72</sup>

### *Connoisseurship*

And the final authentication prong utilizes the ineffable expertise of a connoisseur. A connoisseur is "one who understands the details, technique, or principles of an art and is competent to act as a critical judge."<sup>73</sup> Many connoisseurs are noted for their superior visual memories.<sup>74</sup> These experts examine brushstrokes, composition, iconography, and pigments—aspects of works that help to uncover the true identity of an artist.<sup>75</sup> However an art connoisseur has skills independent of qualifications, but reliant on the cultivation of an inner sensibility.<sup>76</sup> The greatest scholar of an artist is not necessarily the best connoisseur. This expertise has long been veiled in mystery, as it is difficult to pinpoint the features leading to a connoisseurs' determinations.<sup>77</sup> Famous connoisseurs have said that the decisions are informed by immediate gut reactions, and that identifying a work is like recognizing "the face of a friend in a crowd."<sup>78</sup> Some have remarked that this skill should be likened to a sixth sense,<sup>79</sup> as they are unable to explain their judgments. Duveen's partner, Bernard Berenson, described his talent as a "sixth sense."<sup>80</sup> This unexplainable aspect of their conclusions has become the focus of frustration and legal dramas, as it is difficult to question someone's inexplicable instincts.

Authentication is established by balancing these three prongs. However there may be disagreements amongst experts.<sup>81</sup> With differing opinions, battles of experts often occur. In fact, experts have been the targets of litigations.<sup>82</sup> Authentication is an art in and of itself and in today's market art professionals operate at their own risk.<sup>83</sup> The art market is full of exceptionally high-quality fakes that fool even the best experts, and unfortunately authenticators may be liable for incorrect opinions, even those made in good faith. These experts may then face the burden of costly litigation and damage to their reputations. As a result, there has been a silencing effect on authentication boards and independent experts.<sup>84</sup>

## V. AUTHENTICATION ISSUES FACING FOUNDATIONS AND EXPERTS

Amongst other organizations, the Warhol Foundation, Calder Foundation, and the Haring Foundations, have all been sued for authentication disputes.<sup>85</sup> Private experts have also been the target of litigation. As a result, some artists' foundations and boards have disbanded or now refuse to authenticate works.<sup>86</sup> At the same time, some experts refuse to render opinions out of fear of costly lawsuits. The situation is difficult because authoritative authentication is necessary for the art market to operate effectively and legitimately. Consequently, this silence enables fakes and forgeries to enter and trade on the high-priced market since experts do not want to risk speaking out against an object.

As a result, a bill providing protection to experts was introduced to NY state legislature.<sup>87</sup> The New York City Bar Association began to work on the bill after the Knoedler Gallery scandal came to light. Bill S. 6794 would amend § 13.04 of New York's Art and Cultural Affairs Law to provide protections for authenticators rendering opinions regarding the authenticity or attribution.<sup>88</sup> In addition, the legislation would prevent collectors from forcing art experts to provide positive opinions about authorship, attribution, or authentication. If the bill passes, it would require plaintiffs to do three things in a suit against an art expert. First, the plaintiff must meet a heightened pleading standard by pleading with particularity the facts supporting the assertions of wrongdoing. This is the standard applied to fraud claims under Rule 9(b) of the Federal Rules of Civil Procedure, and it discourages the filing of frivolous suits. Second, the plaintiff must prove the elements of a claim by clear and convincing evidence (rather than a preponderance of the evidence, the standard in most civil cases), proving that a claim is substantially more likely true than not. As with the first requirement, this prong is intended to discourage frivolous lawsuits. And third, the plaintiff must pay costs, expenses, and attorneys' fees, in the instance that an authenticator prevails.<sup>89</sup>

By raising the standard of evidence, the law favors experts providing opinions in good faith, as claimants have the daunting task of proving by clear and convincing evidence that the art expert erred. The bill was partially motivated by the desire to bring about a more transparent art market.<sup>90</sup> If the bill is passed, it will encourage scholars to voice their opinions if they discover a forgery or misattributed work, helping to limit the number of fakes on the market.<sup>91</sup> Not only will art experts gain protection by the hurdles facing plaintiffs, but experts will also be given economic reimbursement in cases where they are victorious. Typically US law does not provide costs and attorney's fees, except in the most extreme cases. Called the "American Rule," each party in a lawsuit ordinarily bears its own attorneys' fees, unless there is express statutory authority to do otherwise.<sup>92</sup> However, providing art experts with financial protection will encourage authenticators to speak freely, providing the art market with the necessary information to assist buyers and sellers with their transactions. In light of major fraud scandals recently featured in the news, proponents of the bill point to the need for experts to provide opinions

without fear of baseless and frivolous lawsuits.<sup>93</sup> The pending bill will provide authenticators with protection against collectors attempting to strong-arm experts into providing favorable opinions or withholding detrimental information.

## VI. WHAT CAN CLIENTS DO AFTER ARTWORK IS DEEMED FAKE?

As an attorney working with art collectors, one of the most valuable pieces of advice that I provide is that a client should complete due diligence with independent third parties prior to a purchase. It is easy for dealers to find experts who will support their authorship claims, so it is necessary for clients to complete their own due diligence before a major purchase. Some clients spend exorbitant amounts of money on artwork, spending millions of dollars on a single canvas. Just as home buyers hire title search companies and inspectors to complete research on a home purchase, the same is necessary for art purchases, particularly because many high-end art clients buy works many times more valuable than the average piece of real estate.

Judges are cognizant of the realities of the art market, and more and more often courts expect art collectors to complete due diligence by hiring experts to examine authenticity.<sup>94</sup> In cases involving both auction houses and private dealers, courts have articulated the need for buyers to investigate the true nature of a work before purchasing the good. In addition, buyers should also investigate the sellers and dealers. A dealer's reputation and legal history may help inform clients as to whether they can rely on a seller's promises. Rather than relying on experts supplied by a seller, a potential buyer should complete due diligence by hiring his own connoisseur, a forensics scientist, and provenance researcher. However, even with the advice of experts, it is advisable to include warranty clauses in the contract for sale. Some dealers include limited liability clauses in their sales agreements. These clauses may state that the dealer or seller does not make any warranties as to the authorship of a work and that liability is limited in reference to authenticity. Dealers may also include "as is" clauses that state that the work is bought "as is," meaning that it comes without any warranties as to its authenticity. Art purchasers should not sign agreements with these clauses because they make it difficult, or sometimes impossible, for a buyer to sue based on authorship disparities.

It is advisable to include language that allows a purchaser to rescind a sale, in the case that a work is later discovered to be a forgery. Many of the reputable auction houses include this type of language, allowing purchasers to return works within a given amount of time.<sup>95</sup> This is a necessary clause to include in a contract to ensure that a client is not stuck with a worthless object after a sale. This is particularly important because not all forgeries are detected prior to purchase, but are only discovered once they are in the possession of a collector.<sup>96</sup> Buyers also should not sign purchase agreements that include arbitration clauses as these limit the available remedies when works are discovered to be forgeries. Without the fear of litigation and negative publicity, some sellers may not be cooperative once a forgery is detected.

## *Fraud Claims*

One of the best options for an aggrieved buyer is to sue for fraud. However, litigating a fraud claim is difficult due to the scienter requirement that requires the plaintiff prove that the seller had knowledge that the artwork was not authentic.<sup>97</sup> This is a major hurdle for plaintiffs as it is inherently difficult to prove knowledge. In cases of high-quality and credible forgeries, a dealer is likely able to convincingly assert that he, too, was deceived. As said, this is the argument used by Ann Freedman, former director of the now defunct Knoedler Gallery.<sup>98</sup> It is disturbing that a director of a well-established and respected NY gallery was duped by Rosales story. This is suspicious, and hard to believe, even for the most incredulous of dealers and laymen. From the beginning of modern legal jurisprudence, courts have held that a dealer cannot be guilty of fraud for representing information that he himself *reasonably* believes.<sup>99</sup> If the record demonstrates that the seller genuinely believed in the veracity of the representation, then the plaintiff will not be able to prove the scienter necessary to sustain a fraud claim.<sup>100</sup> This standard begs the question: what is reasonable behavior and belief for a dealer?

## *Some State Laws Place Responsibility on Dealers*

Although the plaintiff-buyer has a difficult task to prove that a seller had scienter in committing fraud, some state legislators carved out a way to protect buyers in the instance that the work was bought from a dealer. As New York is the center of the art market in the United States (if not the world), state representatives found it necessary to protect buyers who purchase works within the state by passing strong laws to favor purchasers. Legislators reasoned that dealers are in the best position to examine the true nature of a work because they are art market professionals. *Dawson v. G. Malina* was the first case to interpret breach of warranty under the New York General Business Law § 291-C (now codified as N.Y. Art & Cult. Aff. Law § 1301).<sup>101</sup> That law established that when an art merchant, in *writing*, attributes an artwork to a particular author, it is presumed to be part of the basis of the sale and is deemed to be an express warranty of authenticity.<sup>102</sup> This warranty applies only when a written statement is made by an art merchant and provided to a non-art merchant.<sup>103</sup> In the case of *Dawson v. G. Malina*, the court found that the appropriate standard for determining breach of warranty of authenticity is whether the art merchant's representations had a "reasonable basis in fact" at the time that the representations were made.<sup>104</sup> The plaintiff must prove by a preponderance of the evidence that the seller did not have a reasonable basis in fact. The reasonable basis is measured by expert testimony, the testimony of art professionals.

In practice with clients, dealers often claim that they truly believed in the veracity of the work, and that they have no reason to doubt the honesty of the consignor. Dealers will phrase their "guarantees" through third parties in order to distance themselves from their statements. For example, dealers will not commit their

warranties in writing, but rather provide them verbally. When committing a promise in writing, the information may be provided as a guarantee from a consignor, rather than from the dealer. A dealer may forward emails from the consignor to a potential purchaser making promises such as “this piece is 100% authentic.” Dealers include explanations in their emails, “I’ve worked with many Picassos and the market is really hot right now. This painting will go quickly, and an interested buyer should act now.” In their messages, dealers do not make explicit guarantees, but strongly suggest a work’s authenticity or make promises through others while pressuring buyers to move forward with acquisitions.

### *Contract Law Claims*

If state statutes do not provide ample protection and fraud claims are impossible to prove, buyers may be protected under contract law. It is reasonable to assert that the identity of an artist is a material aspect of a contract. In contract law, a *material term* is a contract provision that concerns significant issues, such as subject matter, price, quantity, or payment.<sup>105</sup> A reasonable person would believe that authorship is an important provision of a contract for an artwork. A buyer purchasing a painting advertised as a Pollock has the reasonable expectation that the attribution of Pollock is significant, thus a material term of the agreement. Selling artwork incorrectly attributed should be classified as a fundamental breach. Arguably, a fundamental breach of this type allows the aggrieved party to terminate the purchase agreement.<sup>106</sup> In fact, Article 25 of the United Nations Convention on Contracts for the International Sale of Goods (“CISG”) states that a contract breach is fundamental if it results in such detriment to the other party as to substantially deprive him of what he is entitled to expect under the contract, unless the party in breach did not foresee and a reasonable person of the same kind in the same circumstances would not have foreseen such a result.<sup>107</sup> In analyzing why a breach is fundamental, the core element is “detriment”; economic loss is classified as detriment, if it is substantial and deprives the other party of what he or she is “entitled to expect.”<sup>108</sup> No one would willingly pay millions of dollars for a work resembling a Pollock, but not by Pollock’s own hand. Paying for the price of an authentic Pollock, but only receiving a bad copy is certainly a detriment.

In a similar way, a contract cannot be enforced if it is based on a mutual mistake.<sup>109</sup> When a dealer and buyer are both mistaken about the attribution, one may be able to successfully assert mutual mistake and void the contract. A mutual mistake occurs when the parties to a contract are both mistaken about the same *material* fact within their contract. It would be reasonable to assert that the artist’s identity is material. Historically courts have accepted the voidance of contracts based on mutual mistake.<sup>110</sup> Restatement (Second) of Contracts states, “Where a mistake of both parties at the time of contract was made as to a basic assumption on which the contract was made has a material effect on the agreed exchange of performances, the contract is voidable by the adversely affected party unless he bears the risk of the mistake under the rule stated in 154.”<sup>111</sup> Rule 154 provides exceptions for this mutual

mistake and outlines circumstances in which a party bears the risk of mistake: (1) when the risk is allocated to him by agreement of the parties; (2) he is aware, at the time the contract is made, that he has only limited knowledge with respect to the facts to which the mistake relates but treats his limited knowledge as sufficient; or (3) the risk is allocated to him by the court on the ground that it is reasonable in the circumstances to do so. Basically, if the mutual mistake significantly changes the subject matter or the purpose of the contract, the court will not enforce the agreement.

Also, there are equitable elements to consider. When working with clients, dealers will include information in the contracts identifying the work as a Pollock, however will include disclaimers as related to authenticity with only a 1-month warranty. If a client signs this, is it a reasonable defense for the seller? Can someone disclaim responsibility for a multi-million dollar sale after only one month? This time period does not even provide a buyer with sufficient time to fully investigate the authenticity of his purchase. Is it unconscionable to allow an “as is” clause to excuse the dealer and only provide the buyer with an only one-month protection?

## VII. THERE MAY NOT BE AN ABSOLUTE TRUTH IN TERMS OF AUTHENTICITY

Back in 1929, Judge Black recognized that there might not be an absolute truth, and there may not be a consensus for particular works of art, writing: “A new situation exists in the world of art....Frequently, as antiques passed from family to family or from government to government, their authenticity was frequently questioned. Finally, the pendulum of artistic criticism swung slower and slower, until it usually stopped at an opinion which remained practically standard. But it was also subject to a renewal of criticism in books or in the press whenever a critic leveled his attacks at a certain work.”

### ENDNOTES

1. Lagrange v. Knoedler Gallery, No. 11-cv-8757 (S.D.N.Y. 2011).
2. McDonald 2001, 7.
3. Richardson 2007, 15.
4. Goldthwaite 1993.
5. Dolice 2003.
6. Richardson 2007.
7. Charles Hope, “The Art of the Phony,” *The New York Review*, 15 August 2013, <http://www.nybooks.com/articles/archives/2013/aug/15/forgery-art-phony/?pagination=false> (accessed 20 December 2014).
8. Keats 2013, 8–11.
9. “List of Most Expensive Paintings,” *Wikipedia*, last modified 8 December 2014, [http://en.wikipedia.org/wiki/List\\_of\\_most\\_expensive\\_paintings](http://en.wikipedia.org/wiki/List_of_most_expensive_paintings) (accessed 21 June 2015).
10. Worthington Higgs 2004.
11. Judd Tully, “‘The Scream’ Scares Up \$120 Million and Shatters Records at Sotheby’s Epic Impressionist and Modern Sale,” *Blouin Art Info*, 3 May 2012, <http://www.blouinartinfo.com/news/story/802607/the-scream-scares-up-120-million-and-shatters-records-at> (accessed 20 December 2014).

12. Phil Han, "Giacometti Sculpture Sells for Record \$104M," *CNN World*, 7 February 2010, <http://www.cnn.com/2010/WORLD/europe/02/04/world.expensive.art.giacometti/> (accessed 4 October 2014).
13. Carol Vogel, "Relentless Bidding, and Record Prices, for Contemporary Art at Christie's Auction," *The New York Times*, 12 November 2012, [http://www.nytimes.com/2012/11/15/arts/design/record-breaking-prices-at-christies-auction.html?\\_r=0](http://www.nytimes.com/2012/11/15/arts/design/record-breaking-prices-at-christies-auction.html?_r=0) (accessed 4 October 2014).
14. Jonathan Jones, "Why Francis Bacon Deserves to Beat the Scream's Record-Breaking Pricetag," *The Guardian*, 12 November 2013, <http://www.theguardian.com/artanddesign/2013/nov/12/francis-bacon-triptych-lucian-freud-auction> (accessed 20 December 2014).
15. Giondonca 2008, 47, 54 ; Barbara Wall, "Holding the Line against Forgeries," *The New York Times*, 29 October 2009, <http://www.nytimes.com/2009/10/29/business/global/29iht-nwsmart29.html> (accessed 6 October 2014).
16. Gioconda 2008, 47, 54 ; Rob Sharp, "The Counterfeiters: Inside the World of Art Forgery," *The Independent*, 10 December 2007, <http://www.independent.co.uk/arts-entertainment/art/features/the-counterfeiters-inside-the-world-of-art-forgery-764032.html> (accessed 6 October 2014).
17. Hope, "The Art of the Phony."
18. *Ibid.*
19. Rachel Cohen, "Priceless, How Art Became Commerce," *The New Yorker*, 8 October 2012, <http://www.newyorker.com/magazine/2012/10/08/priceless-2> (accessed 21 November 2014).
20. *Ibid.*
21. Hahn v. Duveen, 234 N.Y.S. 185 (Sup. Ct. 1929).
22. *Ibid.*, 185.
23. *Ibid.*
24. *Ibid.*
25. See Brewer 2009.
26. Hahn v. Duveen, 185, 187.
27. *Ibid.*, 185, 186.
28. *Ibid.* Joseph Duveen agreed to pay the Hahns \$60,000 plus court costs in order to avoid additional litigation.
29. *Ibid.*, 185.
30. *Ibid.*
31. See Tipton 2009, 271.
32. Lagrange v. Knoedler Gallery, No. 11-cv-8757 (S.D.N.Y. 2011), complaint filed 2 December 2011, <http://ia601205.us.archive.org/13/items/gov.uscourts.nysd.388601/gov.uscourts.nysd.388601.1.0.pdf> (accessed 21 June 2015).
33. Stephanie Cash, "Knoedler Gallery Closes Abruptly," *Art in America*, 1 December 2011, <http://www.artinamericamagazine.com/news-features/news/knoedler-gallery-closes-abruptly/> (accessed 21 June 2015).
34. Lagrange v. Knoedler Gallery.
35. *Ibid.*
36. *Ibid.*
37. Michael Shnayerson, "A Question of Provenance," *Vanity Fair*, May 2012, <http://www.vanityfair.com/culture/2012/05/knoedler-gallery-forgery-scandal-investigation> (accessed 21 June 2015).
38. Lagrange v. Knoedler Gallery. Alleging that the gallery and its director knowingly sold a forged work to Mr. Lagrange.
39. Other forgery lawsuits against Knoedler include De Sole v. Knoedler, No. 12-cv-2313 (S.D.N.Y. filed 28 March 2012), where collectors paid \$8.3 million for a forged Rothko in 2004; Howard v. Knoedler, No. 12-cv-5263 (S.D.N.Y. filed 6 July 2012); The Martin Hilti Family Trust v. Knoedler, No. 13-cv-0657 (S.D.N.Y. filed 29 January 2013); and White v. Knoedler, No. 13-cv-1193 (S.D.N.Y. filed 21 February 2013), remains pending.
40. "More Details on the Closing of Knoedler Gallery," *Observer*, 5 December 2011, <http://observer.com/2011/12/more-details-on-the-closing-of-knoedler-co-art-gallery-12052011/> (accessed 21 June 2015).
41. Patricia Cohen, "Lawsuits Claim Knoedler Made Huge Profits on Fakes," *The New York Times*, 21 October 2012, [http://www.nytimes.com/2012/10/22/arts/design/knoedler-made-huge-profits-on-fake-rothko-lawsuit-claims.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2012/10/22/arts/design/knoedler-made-huge-profits-on-fake-rothko-lawsuit-claims.html?pagewanted=all&_r=0) (accessed 21 June 2015).

42. Ibid.
43. *United States v. Glafira Rosales*, 13 MAG 1324 (S.D.N.Y. 2013).
44. *United States v. Glafira Rosales*, 13 CRIM 518 (S.D.N.Y. 2013); *United States v. Glafira Rosales*, 13 MAG 1324 (S.D.N.Y. 2013).
45. *United States v. Glafira Rosales*, 13 CRIM 518 (S.D.N.Y. 2013).
46. Eileen Kinsella, "Glafira Rosales Pleads Guilty in Knoedler Case, Faces Up to 99 Years," *Blouin Art Info*, 16 September 2013, <http://www.blouinartinfo.com/news/story/959059/glafira-rosales-pleads-guilty-in-knoedler-case-faces-up-to-99> (accessed 21 June 2015).
47. Ibid.
48. Shnayerson, "A Question of Provenance."
49. *DeSole v. Knoedler Gallery, Complaint*, 12 CIV 2313 (SDNY 2013).
50. Ibid.
51. *De Sole v. Knoedler Gallery*, Memorandum Opinion and Order, 30 September 2013, <http://www.scribd.com/doc/172560714/De-Sole-v-Knoedler-Gallery> (accessed 21 June 2015); Laura Gilbert, "New York Court Rejects Knoedler and Freedman's Motion to Dismiss Fakes Cases," *The Art Newspaper*, 2 October 2013, <http://www.theartnewspaper.com/articles/New-York-court-rejects-Knoedler-and-Freedmans-motion-to-dismiss-fakes-cases/30647> (accessed 21 June 2015).
52. *De Sole v. Knoedler Gallery*, Memorandum Opinion and Order. Relevant portion of opinion states: "The facts alleged in each complaint provide an ample record on which to conclude that Freedman, and Knoedler acting through Freedman, its president, participated or 'played some part in directing' the affairs of the alleged racketeering enterprise... [They] demonstrate that Freedman—in her capacity as Knoedler's president—made numerous misrepresentations to Howard and the De Soles and their agents concerning the provenance and authenticity of the forged paintings they purchased. The complaints also plead facts more broadly demonstrating that Freedman likely knew... that her statements were false. For example, Freedman is alleged to have made numerous misrepresentations about... whether Rosales-related paintings would be included in upcoming catalogue raisonnés. Rosales' shifting stories... and her inability to obtain any written corroboration or endorsement from the alleged owner, provide circumstantial evidence that Freedman... knowingly made materially false statements to Howard and the De Soles and their agents."
53. Patricia Pierce, "Beware the Illegitimate Art Agent," *Newsmax*, 11 August 2014, <http://www.newsmax.com/patriciapierce/art-forgeries/2014/08/11/Id/588069/> (accessed 21 June 2015).
54. Patricia Cohen, "Sixth Suit Filed by Client against Former Knoedler Gallery," *The New York Times*, 9 May 2013, <http://artsbeat.blogs.nytimes.com/2013/05/09/sixth-suit-filed-by-client-against-former-knoedler-gallery/> (accessed 21 June 2015); Philip Boroff, "GLG's Lagrange Says Knoedler Sold \$17 Million Fake Pollock," *Bloomberg Business*, 3 December 2011, <http://www.bloomberg.com/news/articles/2011-12-02/glg-s-lagrange-says-knoedler-gallery-sold-him-17-million-forged-pollock> (accessed 21 June 2015).
55. Toby Hill, "The Art Market: Unregulated Unscrupulous and Worth Billions," *Artlyst*, 11 December 2012, <http://www.artlyst.com/articles/the-art-market-unregulated-unscrupulous-and-worth-billions> (accessed 21 November 2014); Adrian Ellis, "The Regulation of the Art Market: Why a Clean-up would be a Clear-out," *The Art Newspaper*, February 2007, [http://aeaconsulting.com/idea/the\\_regulation\\_of\\_the\\_art\\_market\\_why\\_a\\_cleanup\\_would\\_be\\_a\\_clearout](http://aeaconsulting.com/idea/the_regulation_of_the_art_market_why_a_cleanup_would_be_a_clearout) (accessed 21 June 2015).
56. *Biro v. Conde Nast*, 883 F. Supp. 2d 441, 459 (S.D.N.Y. 2012).
57. Daab 2010.
58. *Balog v. Ctr. Art Gallery-Hawaii, Inc.*, 745 F. Supp. 1556, 1561 (D. Haw. 1990).
59. Cohen 2012.
60. See *Secrets of the Dead: The Mona Lisa Mystery* (PBS television broadcast, 9 July 2014) for a discussion of scientific analyses completed on the Mona Lisa and other versions of the same painting.
61. Jessica Jerreat, "CSI Art World: How Hair from a Bear Skin Rug Proved Pollock's Last Work Really Was a Love Letter to His Mistress," *DailyMail*, 8 November 2013, <http://www.dailymail.co.uk/news/article-2492791/Jackson-Pollocks-work-mistress-authenticated-DNA.html> (accessed 21 June 2015).

62. 1 Art, Artifact, Architecture and Museum Law § 4:24.
63. Smith, Horton, Watling, and Scoullar 2005.
64. David Grann, "The Mark of a Masterpiece," *The New Yorker*, 12 July 2010. Outlines the accusations that forensics expert Peter Paul Biro used forensics to place evidence onto paintings.
65. James Grundvig, "Knoedler Scandal Head Fake, NY Times Swallows the Bait," *Epoch Times*, 30 August 2013, <http://www.theepochtimes.com/n3/blog/knoedler-scandal-head-fake-ny-times-swallows-the-bait/> (accessed 21 November 2014).
66. *Oxford Dictionaries* defines provenance as "a record of ownership of a work of art or an antique, used as a guide to authenticity or quality." [http://www.oxforddictionaries.com/us/definition/american\\_english/provenance](http://www.oxforddictionaries.com/us/definition/american_english/provenance).
67. Ram and Liu 2012.
68. *Greenberg Gallery, Inc. v. Bauman*, 817 F. Supp. 167, 173 (D.D.C. 1993) *aff'd*, 36 F.3d 127 (D.C. Cir. 1994); for a list of documents that may serve as provenance proof, see also Alan Bamberger, "Art Provenance: What Is It and How to Verify It," *ArtBusiness*, <http://www.artbusiness.com/provwarn.html> (accessed 21 June 2015).
69. Salisbury and Sujo 2009.
70. *Greenwood v. Koven*, No. 92 CIV. 2574 (CSH), 1993 WL 541181, at \*10 (S.D.N.Y. Dec. 29, 1993) on reconsideration in part, 880 F. Supp. 186 (S.D.N.Y. 1995).
71. Bamberger, "Art Provenance: What Is It and How to Verify It." States "Good provenance almost always increases the value and desirability of a work of art because, first and foremost, it authenticates the art. Good provenance also provides important information about and insight into a work of art's history. Unscrupulous sellers know the value of provenance and often go to great lengths to manufacture or fabricate phony provenance for their art." See Cheney, Finkelstein, Ludäscher, and Vansummeren 2012.
72. See *Museum of Fine Arts, Boston v. Seger-Thomschitz*, No. CIV.A.08-10097-RWZ, 2009 WL 6506658, at \*9 (D. Mass. June 12, 2009) *aff'd*, 623 F.3d 1 (1st Cir. 2010). The First Circuit examines the history of a painting to determine the rightful owner.
73. *Biro v. Conde Nast*, 883 F. Supp. 2d 441, 449 (S.D.N.Y. 2012).
74. Grann, "The Mark of a Masterpiece."
75. *Ibid*.
76. Brewer 2009.
77. Cohen 2012.
78. Grann, "The Mark of a Masterpiece."
79. J. Peder Zane, "In Pursuit of Taste, en Masse," *New York Times*, 11 February 2013, <http://www.nytimes.com/2013/02/12/business/connoisseurship-expands-beyond-high-art-and-classical-music.html?pagewanted=all> (accessed 21 November 2014).
80. Grann, "The Mark of a Masterpiece."
81. Kwame Opam, "Disputed Jackson Pollock Painting Pits Police Forensics against Art World Connoisseurs," *The Verge*, 25 November 2013, <http://www.theverge.com/culture/2013/11/25/5144014/disputed-jackson-pollock-painting-pits-forensics-against-art> (accessed 21 November 2014).
82. Daniel Grant, "Bill to Limit Nuisance Lawsuits against Art Authenticators," *Huffington Post*, 16 June 2014, [http://www.huffingtonpost.com/daniel-grant/bill-to-limit-nuisance-la\\_b\\_5500272.html](http://www.huffingtonpost.com/daniel-grant/bill-to-limit-nuisance-la_b_5500272.html) (accessed 21 November 2014).
83. Eileen Kinsella, "Concerns about Liability Have Led Several Artist's Foundations to Stop Authenticating Their Work," *Art News*, 28 February 2012, <http://www.artnews.com/2012/02/28/a-matter-of-opinion/> (accessed 21 November 2014).
84. Lisa Karczewski, "Authentication Experts' Fear of Litigation Stymies Art Market," *Art Law*, 30 November 2012, <http://artlaw.foxrothschild.com/2012/11/articles/litigation-issues/authentication-experts-fear-of-litigation-stymies-art-market/> (accessed 21 November 2014).
85. *Simon-Whelan v. The Andy Warhol Found.* for the Visual Arts, No. 07 Civ. 6423 (S.D.N.Y. 2009); *Thome v. Alexander & Louisa Calder Found.*, No. 600823/07 (N.Y. Sup. Ct. 2008); *Bilinski v. The Keith Haring Found., Inc.*, 14-CV-1085 (S.D.N.Y., filed 2014).

86. Barbara Guggenheim, "Exit the Deciders: What Will the Recent Disbanding of Authentication Committees Mean for the Art World?" *New York Observer*, 7 February 2012, <http://galleristny.com/2012/02/exit-the-deciders-what-will-the-recent-disbanding-of-authentication-committees-mean-for-the-art-world/> (accessed 21 November 2014).

87. Daniel Grant, "New Legislation Would Protect Art Authenticators against 'Nuisance' Lawsuits," *New York Observer*, 4 June 2014, <http://galleristny.com/2014/06/dont-shoot-the-messenger-if-passed-new-legislation-would-protect-art-authenticators-against- nuisance-lawsuits/> (accessed 21 November 2014).

88. See "State of New York, 6794 In Senate," 11 March 2014, <http://assembly.state.ny.us/leg/?sh=printbill&bn=S6794&term=2013>. Authenticator is described in the bill as "A person or entity recognized in the visual arts community as having expertise regarding the artist or work of fine art with respect to whom such person or entity renders an opinion in good faith as to the authenticity, attribution or authorship of a work of fine art, or a person or entity recognized in the visual arts or scientific community as having expertise in uncovering facts that serve as a direct basis, in whole or in part, for an opinion as to the authenticity, attribution or authorship of a work of fine art."

89. *Ibid.*

90. New York City Bar 2013.

91. Julia Halperin, "No More Silence of the Scholars," *The Art Newspaper*, 14 March 2014, <http://www.theartnewspaper.com/articles/No-more-silence-of-the-scholars/31622> (accessed 21 November 2014).

92. *Hensley v. Eckerhart*, 461 U.S. 424, 429, 103 S. Ct. 1933, 1937, 76 L. Ed. 2d 40 (1983).

93. Halperin, "No More Silence of the Scholars."

94. *Levin v. Gallery 63 Antiques Corp.*, 2006 U.S. Dist. LEXIS 70184 (S.D.N.Y. 2006).

95. Wallace 2010.

96. See *Greenwood v. Koven*, 880 F. Supp. 186 (S.D.N.Y. 1995).

97. See *Cohen v. Mazoh*, No. 604029/02 (N.Y. Sup. Ct., May 21, 2003); see *Krahmer v. Christie's*, 911 A.2d 399 (Del. Ch. 2006).

98. James Panero, "I Am the Central Victim': Art Dealer Ann Freedman on Selling \$63 Million in Fake Paintings," *New York Magazine*, 27 August 2013, <http://nymag.com/daily/intelligencer/2013/08/exclusive-interview-with-ann-freedman.html> (accessed 20 December 2014).

99. *Jendwine v. Slade*, 170 Eng. Rep. 459 (N.P. 1797).

100. *Krahmer v. Christie's Inc.*, 911 A.2d 399 (Del. Ch. 2006).

101. *Dawson v. G. Malina, Inc.*, 463 F. Supp. 461 (S.D.N.Y. 1978).

102. New York General Business Law § 291-C (now codified as N.Y. Art & Cult. Aff. Law § 1301).

103. *Ibid.*

104. *Dawson v. Malina*, 463 F. Supp. 461 (S.D.N.Y. 1978).

105. *Black's Law Dictionary*, 7th ed, <http://thelawdictionary.org/material-contract-terms/> (accessed 21 June 2015).

106. *US Legal*, <http://definitions.uslegal.com/f/fundamental-breach/> (accessed 20 December 2014).

107. Guide to Article 25, CISG, <http://www.cisg.law.pace.edu/cisg/text/peclcomp25.html> (accessed 21 June 2015).

108. Veziroglu, "The Concept of Fundamental Breach in the CISG."

109. Ayres 1993, 309.

110. *Ibid.*

111. Restatement (Second) on Contracts § 152 (1981).

## BIBLIOGRAPHY

Ayres, Ian. 1993. Mutual and Unilateral Mistake in Contract Law. *Journal of Legal Studies* 22, no. 2: 309–403, <http://islandia.law.yale.edu/ayers/mutual.htm> (accessed 21 June 2015).

Brewer, John. 2009. *The American Leonardo: A Tale of Obsession, Art and Money*. New York: Oxford University Press.

- Cheney, James, Anthony Finkelstein, Bertram Ludäscher, and Stijn Vansummeren. 2012. "Principles of Provenance." *Dagstuhl Reports* 2, no. 2: 84–113, <http://web.cs.ucdavis.edu/~ludaesch/pubs/Dagstuhl-12091-Provenance-2012.pdf> (accessed 21 June 2015).
- Cohen, Sherri North. 2012. "Panel 1: The Process of Authentication." *The Columbia Journal of Law and the Arts* 35, no. 3: 369.
- Daab, John. 2010. "Fine Art Authentication: Where Are the Forensic Examiners?" *The Forensic Examiner* 19, no. 2, <http://www.biomedsearch.com/article/Fine-art-authentication-where-are/228171762.html> (accessed 21 November 2014).
- Dolice, Joe L. 2003. "A History of Art Forgery." *Mystudio*, <http://www.mystudios.com/gallery/forgery/history/> (accessed 20 December 2014).
- Giondonca, Joseph C. 2008. "Can Intellectual Property Laws Stem the Rising Tide of Art Forgeries?" *Hastings Communications and Entertainment Law Journal* 31, no. 1: 47–78.
- Goldthwaite, Richard A. 1993. *Wealth and the Demand for Art in Italy, 1300–1600*. Baltimore: Johns Hopkins Press.
- Keats, Jonathon. 2013. *Forged: Why Fakes Are the Great Art of Our Age*. New York: Oxford University Press.
- McDonald, Jesse. 2001. *Michelangelo*. London: PRC Publishing Inc.
- New York City Bar. 2013. "Report by the Art Law Committee Recommending Amendments to New York's Arts and Cultural Affairs Law Related to Opinions Concerning Authenticity, Attribution and Authorship of Works of Fine Art," <http://www2.nycbar.org/pdf/report/uploads/ArtAuthenticatorProposalArtLawReportFINAL12.19.13.pdf> (accessed 21 November 2014).
- Ram, Sudha, and Jun Liu. 2012. "A Semantic Foundation for Provenance Management." *Journal on Data Semantics* 1, no. 1: 11–17, <http://link.springer.com/article/10.1007%2Fs13740-012-0002-0#page-1> (accessed 21 June 2015).
- Richardson, Carol M. 2007. *Locating Renaissance Art*, 15. London: Yale University Press.
- Salisbury, Laney, and Aly Sujo. 2009. *Provenance: How a Con Man and a Forger Rewrote the History of Modern Art*. New York: The Penguin Press.
- Smith, Kari, Kristin Horton, R. John Watling, and Natalie Scoullar. 2005. "Detecting Art Forgeries Using LA-ICP-MS Incorporating the *in situ* Application of Laser-based Collection Technology." *Talanta* 67, no. 2: 402–13.
- Tipton, Seth. 2009. "Connoisseurship Corrected: Protecting the Artist, the Public and the Role of Art Museums through the Amendment of Vara." *Rutgers Law Review* 62, no. 1: 269–303.
- Veziroglu, Cem. "The Concept of Fundamental Breach in the CISG." *Academia*, [http://www.academia.edu/2537514/The\\_Concept\\_of\\_Fundamental\\_Breach\\_in\\_the\\_CISG](http://www.academia.edu/2537514/The_Concept_of_Fundamental_Breach_in_the_CISG) (accessed 20 December 2014).
- Wallace, Judith. 2010. "Your Art Sold at Christie's or Sotheby's Auction. Can the Auctioneer Undo Your Sale Years Later? Probably, Yes." *Spencer's Art Law Journal* 1, no. 1: 2–4, <http://www.artnet.com/magazineus/news/spencer/spencers-art-law-journal4-6-10.asp> (accessed 21 November 2014).
- Worthington, Andrew C. and Helen Higgs. 2004. "Art as an Investment: Risk, Return and Portfolio Diversification in Major Painting Markets." *Accounting and Finance* 44, no. 2: 257–71.