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Léone Meyer's Claims for Pissarro Transferred to Oklahoma

By [Nicholas O'Donnell](#) on April 7th, 2015

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A U.S. District Court judge has taken [the recent invitation of the Second Circuit Court of Appeals](#), and [transferred to Oklahoma](#) a lawsuit by Léone Meyer over ownership of a Camille Pissarro painting at the Fred Jones, Jr. Museum at the University of Oklahoma. The case will now proceed in Oklahoma, where the museum seems likely to assert both sovereign immunity under Oklahoma law, as well as an argument that transfers in Switzerland conferred legal title to the museum as a successor to those transfers. However counterintuitive it seems, it may yet be that a court could agree with Meyer that the painting was stolen, but agree with Oklahoma that a Swiss litigation in the 1950s about whether it was sold to a good faith buyer means that Oklahoma holds full title and ownership.

While the New York judge expressed unhappiness at the manner in which the case was filed, the fact is that that displeasure will not affect the claims going forward. Given Meyer's concerted efforts to attract political sympathy in Oklahoma over the case, one wonders if the presence of the lawsuit in Oklahoma will accelerate efforts to resolve the case.

The claim concerns an oil painting by Pissarro, *La bergère rentrant des moutons*. Meyer alleged that the painting was stolen from her father Raoul in France by the Vichy regime in cooperation with the occupying Nazi forces. After the war, she alleges that Raoul located the painting in the possession of a Christoph Bernoulli in Switzerland. Bernoulli and Raoul litigated some aspect of the case then, and a Swiss Court seems to have held in 1953 that Bernoulli bought the painting in good faith, which as a matter of Swiss law would extinguish any claim by the Meyers. Meyer sued the Oklahoma defendants in 2013, claiming that she is the rightful owner of the painting. Meyer also sued my client (the David Findlay, Jr. Gallery) and others, in New York, alleging that the painting had been sold at the David Findlay Galleries in 1956 to Aaron and Clara Weitzenhofer, the couple who eventually bequeathed it to the Fred Jones, Jr. Museum. My client and the other New York defendants were dismissed from the case by agreement or as defunct entities.

The [District Court ruled that it lacked jurisdiction over the Oklahoma defendants](#). On appeal, the Second Circuit sidestepped that question and suggested that the District Court consider a transfer to the Western District of Oklahoma.

Today, the District Court did so. While expressing sharp displeasure with what she termed a choice of venue "contrived as a forum shopping strategy," ("it is difficult for this busy court not to feel put upon by plaintiff's litigation strategy") and going out of her way to note that the plaintiff had not ever moved for a transfer, Judge McMahon nonetheless analyzed the factors that govern a request for transfer: (1) the convenience of the witnesses, (2) the convenience of the parties, (3) the location of relevant documents and the relative ease of access to sources of proof, (4) the locus of operative facts, (5) the availability of process to compel the attendance of unwilling witnesses, (6) the relative means of the parties, (7) the forum's familiarity with governing law, (8) the weight accorded to plaintiffs choice of forum, and (9) trial efficiency and the interests of justice, based on the totality of the circumstances.

The Court concluding that many of these factors actually weighed against transfer, but:

I have great sympathy for plaintiff in her quest to retrieve a painting that meant a great deal to her family, and that was apparently stolen from them in the most heinous circumstances.

The importance of this is that to the extent that Meyer's claims were timely in New York, she

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will not have to argue about the expiration of any statutes of limitations by virtue of the transfer to Oklahoma. As the Court observed:

Federal courts are "commencement by filing" jurisdictions, not "commencement by service" jurisdictions. Fed. R. Civ. P. 3. The statute of limitations has been tolled since the filing of this lawsuit.

So the case will go on, closer to the museum. While the plaintiff presumably had hoped to avoid this (she could have sued Oklahoma, in Oklahoma, out the outset), it's possible that the transfer will have a positive effect for extra-judicial reasons. While the motions were pending last year, Meyer and her attorney took [their public case](#) to Oklahoma. They [spoke before the Oklahoma legislature](#), and successfully enlisted the sympathy of a handful of lawmakers. Rep. Mike Reynolds has called for an investigation. Perhaps with the case closer to home, she will manage to garner more support for a negotiated or legislative resolution. Time will tell.



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TAGS: [AAM](#), [AAMD](#), [Aaron and Clara Weitzenhofer](#), [American Alliance of Museums](#), [Association of Art Museum Directors](#), [Camille Pissarro](#), [Christoph Bernoulli](#), [CPLR 301](#), [David Findlay Galleries](#), [David Findlay Jr. Inc.](#), [due process](#), [Fred Jones Jr. Museum of Art](#), [Judge Colleen McMahon](#), [La bergère rentrent des moutons](#), [Leone Meyer](#), [long art statute](#), [Metropolitan Museum of Art](#), [Nazi Occupation](#), [personal jurisdiction](#), [Raoul Meyer](#), [Rep. Mike Reynolds](#), [Swiss judgment](#), [Switzerland](#), [third party beneficiary](#), [University of Oklahoma](#), [Vichy](#)

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