

# Art Law Gallery

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## [The Prudent Buyer's Guide to Art Fairs](#)

Whether you are a first-time buyer or an experienced collector, the electricity surrounding an international art fair can overwhelm the senses. Lavish parties, rich history, and the subtle buzz of thousands of business deals endow events like Art Basel, the Venice Biennale, and the upcoming Los Angeles Biennial, planned for 2012, with an air of gravitas that is equal parts charm and distraction. Hopefully, with just a little advice, the prudent collector can cut through the noise and ensure the best possible investment on the best possible terms.

### **Tip 1: Do Your Homework**

While it might seem obvious to some, the most important rule for an art collector is to learn as much as possible about the artists and works available at a given event – what is the artist's personal history? What are the artist's best styles? What is the work's history? What prices do the artist's works typically fetch at auction or in the open market? In addition, it is important to consider the entire *oeuvre* of the artist. A work which represents an important stage in the artist's career or a pivotal turning point will almost always constitute the better investment.

To answer questions like those above, collectors should utilize as many resources as possible. Conversations with the artist or dealer, online databases, artist's resumes, and art reference books are a good place to start. Furthermore, if a wealth of information about an artist is available online and in print, it speaks volumes about that artist's relative importance or popularity. However, since the volume of available information can be unwieldy, it may be worthwhile for new collectors to secure the services of an experienced consultant familiar with art history and the current market value of the works for sale.

Regardless of how you choose to "do your homework," the more knowledge you possess, the more confident you can be in your investment.

Looking for more information? Alan Bamberger's "[How to Collect and Buy Art: The Basics](#)," provides a good primer.

### **Tip 2: Check the Provenance of the Work**

"Provenance" comes from the French word "*provenir*" meaning "to come from." The provenance of a work usually consists of the names of the former owners, the dealers involved in prior

transactions, and exhibitions where the work was shown. This information enables the collector to trace a work's history and ensure that it is not stolen, forged, or illegally exported. Thus, not surprisingly, a work's provenance has a major influence on its value.

Unfortunately, despite its importance, ensuring a work's provenance can be tricky. Rather than taking information at face value, the prudent collector should ask questions and take the extra step of verifying information on his or her own. Instead of just obtaining the names of owners, auction houses, and exhibitions, savvy collectors will often ask for contact information so that they can verify the information independently. If a painting was "attributed" to a given artist, it is wise to ask who did the attribution and then check their qualifications. If a seller only has photocopies of important documentation, one should inquire as to where the originals are located and make a request to inspect them.

If a collector wishes to purchase the works of a more established artist, a *catalogue raisonne* may be the easiest means of ensuring provenance. A *catalogue raisonne* is a comprehensive listing of a given artist's works and will usually trace the history of the work and include information about the work's former owners (museums, galleries, private collectors, etc.). Illustration in this catalogue is strong proof of authenticity and provides answers to many of the questions listed above.

Unfortunately, even with diligent research, it can be difficult to validate the provenance of a new or relatively unknown contemporary artist's work—as resources like the catalogue raisonne are unavailable. Thus, when making such purchases, it is often worthwhile to hire an "experienced eye" who can provide assistance and make recommendations.

In any case, in addition to ensuring a work's provenance, the savvy collector will often request a Certificate of Authenticity and will *always* request a condition report.

### **Tip 3: Ask An Expert**

At the end of the day, even experienced collectors usually ask for an expert's assistance and consultation before attending a biennale or making a purchase at auction. While a prudent collector will always take part in the research and ask the questions described above, experts enjoy a degree of immersion and experience in the "art world" which is difficult to substitute. Furthermore, most dealers, consultants, and advisors can find ways of beating the crowd, getting to the events early and securing their clients the best works. Some even go the extra mile, as Philippe Ségalot did for the 2006 Art Basel—hiring a Hollywood makeup artist to disguise him so that he could use an exhibitor pass to sneak into the fair days before it began. Moreover, an art dealer can discourage a serious collector from making an impetuous purchase or from purchasing a work of lesser quality rather than waiting for a superior example of the same type.

Despite the "fast and loose" nature of many art deals, the underlying legal and business issues mimic those of many other high-price transactions. Fine art is an investment, an heirloom, and a purchase that carries with it scores of legal issues. Whether collecting for pleasure or profit, upon the purchase of the work, the buyer will find him or herself faced with an entirely new set of

considerations—collectors who buy abroad must educate themselves regarding export restrictions; all collectors should consider insuring their purchases (although annual costs may approach one percent of the work's overall value); and it is always wise to consider the taxation and estate-planning issues raised by such an expenditure.

This article is the first in a series exploring innovation in the business of art and highlighting the tax, estate, and intellectual property law issues that inevitable arise therefrom.

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