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Wednesday, 26 January 2011

How to Make a Small Fortune in the Art Business

(*You know how that joke goes, right?)

By **Ctein**

Some of you might remember that last September I was putting some of my Jim Marshall photograph collection in an auction of American memorabilia taking place in New York City. It turned out to be quite an adventure; things did not go exactly as I had planned. So sit right back and you'll hear a tale—

Let me start off by clearly and honestly stating that everyone advised me against participating in this. By everyone, I mean Paula, my housemate; Laurie, my best friend and sometimes photography partner; my agent; and the executor for Jim's estate. I do listen—I just do not always take the advice of others. I decided that gambling a modest portion of my holdings (only a little more than a third) was a worthwhile gamble. I might lose or I might win. While my advisors thought it was the wrong choice, they did agree that I understood what I was getting into, and I wasn't risking the whole pot. We all knew it might not turn out well.

None of us imagined how badly it would turn out.

The auction house, Guernseys, picked 15 photographs, six dye transfer and nine Ultrachrome prints, which went to auction on September 24th. It was not a rousing success.

That was understatement. The auction bombed.

People simply weren't in a buying mood. Three of the Ultrachromes sold early, and at such appallingly low prices that I decided I was very happy that more hadn't sold. (Those didn't have reserves on them; most of the pieces I put up for auction didn't have reserves, because there are downsides and expenses associated with reserves.) *Nothing* sold well in that auction; a good 80% of the items put up either got no bids at all or didn't hit their very modest reserves. Maybe one piece got anything close to the estimated street value (the Black Bird—sorry, Mike!), and I was familiar enough with enough items in the auction to know that the estimated street values that were posted by Guernseys were normally realistic ones. I am absolutely, positively sure it wasn't usual performance for a Guernseys auction; they could not survive in the business making a profit and handling the kind of properties they do from auctions like this. It was just bad luck for all involved.

Well, that was the gamble I had taken.

Then things went really, *really* bad...

Guernseys shipped the photographs back to me as planned, well packaged and insured. When I unpacked the photographs, I discovered that eight prints were damaged, rendering them essentially worthless (according to my agent and to Jim Marshall's estate). I lost the following prints (dimensions are image areas):

Ultrachrome:

Aretha and Ray—12" x 18"
Brian Wilson—15" x 22"
Lenny Bruce—11" x 17"
Grateful Dead—12" x 17"
Mick Jagger Palace Laundry—12" x 18" (this is the one that was pictured with Mike's article, linked above)
Santana—12" x 18"

Dye transfer:

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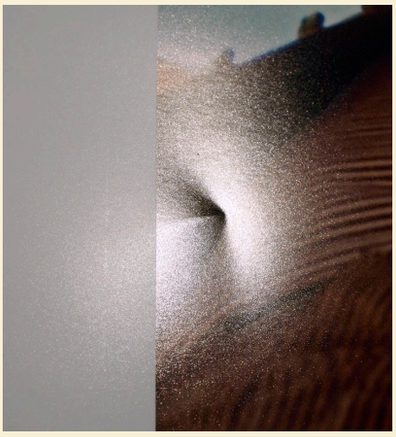
Jimi Hendrix Burning Guitar—15"x 19"
The Who—9" x 14"

There is a monetary loss of about $35,000. The real loss is that only a few prints ever existed of most of these. Rare work destroyed in an instant.

The nature of the creases and cracks and the randomly varying locations from print to print made it clear that the damage had occurred due to mishandling while they were in the possession of Guernseys.

Closeup of a section of "Jim Burning Guitar," the picture at the top of this post, showing an example of the damage to the print

Full photograph and closeup of a section of "Grateful Dead"



It was not a shipping accident nor a single event, like dropping a box. I don't know exactly *how* the damage occurred, but Guernseys chose to mat the prints for display for the auction, and the damage would be consistent with someone who was matting or unmatting the prints handling them carelessly. It's the kind of damage you'd get if you picked up a large flimsy photographic print by one hand or let it flex and bow to the point where the paper creases when you moved it around. Whatever; the particulars don't matter.

What does matter is how Guernseys behaved when I informed them of the damage.

They refused to talk about the matter with me, ever. Understand that prior to this incident, I could always get the owner, Arlan Ettinger, to return my calls within a day or so, even when he was traveling. Everyone else in the office was extremely helpful and they educated me immensely on the ins and outs of participating in a full-blown, professional auction. They did great handholding.

Up until something went wrong. Then I became *persona non grata*.

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It's easy to be nice to a client when everything is champagne and roses. What speaks to your character is how you behave when something goes wrong. At the very least, there is a certain amount of make-nice, sympathetic handholding you're supposed to do, that doesn't commit nor obligate you to anything. It's good manners. It's good morals. It's even good business.

They did not treat me as a client who'd suffered an unfortunate accident, but as an adversary. I did consider this merely an unfortunate accident; I was unhappy but I certainly wasn't angry. People are human. I live in mortal fear of the day that I damage a client's irreplaceable photograph. It could happen. Accidents do. It doesn't make you bad. It's how you step up after the accident that defines your character.

Guernseys did not step up. I never got one call back from Guernseys. Numerous phone calls to the director of the auction house were unproductive, a persistent refrain that boiled down to, *we have nothing to say to you. Deal with our insurance agent.*

There was insurance involved, thank God. Guernseys (at *my* expense) had taken out an insurance policy on the artwork with AXA Art Insurance Corporation. They dealt with the matter fairly directly. It took about six weeks to work through the process. I needed to provide them with photographs of the damage to each piece. Those were convincing enough that they did not require me to show the originals to an inspector or ship them to them until after the settlement.

Then we had to confirm the valuation I'd put on the pieces. That was harder. What we fell back on was a fortunate single sale I had made of seven dye transfer prints shortly after Jim died, which established that the prices for comparable work that I had sent to Guernseys were realistic. I had e-mail exchanges and the stub from the check I received in payment that matched up. The insurance company accepted that as a reasonable valuation.

I was relieved; I was truly fearful that they were going to offer me mere pennies on the dollar. Instead they offered me a settlement of 80% of my claimed value. It would have been essentially 100%, except that one of the damaged photos, the Jimi Hendrix, was one I had put a low reserve on for the auction as a hedge. Well, guess what? When you put a reserve like that on a piece, the insurance company's policy says that that's the amount you're willing to accept in payment for the piece. That's reasonable and hard to argue with, but it meant I did screw myself out of the remaining 20%.

Of course, if I hadn't put the reserve on, that photograph might've gone for even less in the auction. As I said, it's a gamble. Still, it's a downside to reserves I bet that most of you don't know about. I didn't.

There was one oddness. AXA wouldn't pay me the $5,000 deductible on the policy. They told me I could go after Guernsey's for that. That may be entirely normal practice; I don't know anything about art insurance nor insurance law and regulations in New York State. It seems peculiar to me; here in California, if another driver totaled my automobile, their insurance company would pay for replacing my car. They wouldn't expect me as the injured third party to go after the policyholder for the deductible; that would be their job. I asked the claims director via e-mail if this left me free to pursue Guernseys the $5,000 and he wrote back very clearly that it did.

The "Full And Final Release Of All Claims" that AXA sent me read, in part:

> *...hereby releases and forever discharges AXA Art Insurance Corporation (US) and Barlan Enterprises, Ltd. D/B/A Guernseys from any and all claims, demands, legal actions, controversies, agreements, promises, damages, liabilities and causes of action of every kind and nature relating to artwork damaged...*

After a couple of days I got the claims director on the phone, and he swore that this release did not preclude me from going after Guernseys for the deductable. Uh huh. Not how I read it. They made it 100% clear that if I wasn't willing to sign the release as written, I'd not see a cent without legal fisticuffs.

Before I signed, I made one last phone call to Guernseys. Once again I was shunted to the director instead of Arlan. Of course. I told her that the insurance company and I had reached an agreement that left Guernseys on the hook for the deductible and it would be nice if we could agree to some kind of an accommodation on that right now. She said they had no intention of paying me a single cent, that they didn't think I was entitled to another penny, that they didn't think the works were worth a fraction of what I claimed (um, the insurance company did and so did Guernseys when they accepted them for auction), and that they didn't even know the terms of the settlement so they couldn't discuss anything with me, anyway. (Later in that same conversation the director quoted to me the amount of the settlement check I would be receiving. Interesting, as I'd never mentioned the amount.)

Why was I not surprised?

So I shrugged, signed the release, send it back to AXA, and less than three weeks later I had a settlement check.

That's where I'm going to leave it. I could spend a few hundred dollars to have my attorney read over the release, check into New York State insurance law, and confirm what I'm 80% certain of anyway—that I have signed away my rights to go after Guernseys for the deductible. And even if I haven't, I'd have to file a claim in New York Small Claims Court, fly back to New York for the hearing, and minor other stuff. If I had the legal option to do so, I'm pretty certain I'd win. And it would be good pay, after expenses, for my time. But...

Do I need the aggravation? No. Do I need the money *that* badly? No. All I need for closure is getting the last word in.

I've just done that. AXA I'm pretty happy with. Guernseys? You couldn't pay me to do business with them again. As I said, speaks to character.

Ctein

Ctein's regular weekly column appears on Wednesdays.

Posted on Wednesday, 26 January 2011 at 07:42 AM in Collecting, Ctein, Legal and social issues | Permalink

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Comments

Good grief, what a catastrophe! Talk about an "all or nothing" gamble!

You learn something new every day: I subject my National Geographics to better handling than a professional auction house treats rare photographic prints.

What is the lesson learned? Sell 'em yourself? Only deal with an outfit that specializes in photography?

Posted by: John Holland | Wednesday, 26 January 2011 at 08:08 AM

Thanks for the warning on this sleazy auction company. What a bunch of noodles. Sounds like you did indeed let Guernsey off the hook, but I completely understand your feelings in the matter and it sounds like you did good given the short period of time until you got the check. Insurance companies frequently threaten to withold payment of claims for which they are clearly liable, in order to extort some concession (for example, agreeing to pay the property damage to your car in a minor accident caused by its insured, if you'll agree to sign a waiver saying you are not physically hurt, and threatening to withold payment on the property damage if you do not, knowing full well that you need your car to get to work in order to earn a living, etc.).

cfw

Posted by: cfw | Wednesday, 26 January 2011 at 08:11 AM

Are there similar complaints of this magnitude against Guernseys? I wonder what sort of trend exists with this company.

Posted by: Benjamin Reed | Wednesday, 26 January 2011 at 08:27 AM

...of course, for the traditional internet backlash vs Guernseys to work, we readers need to link to this from as many places as possible, right?

And for only a small bit of your soul, we could upgrade to the full 4chan package*!

But seriously, sorry to hear about the trouble, glad to hear it sort-of worked out in the end, and thanks for the warning.

* If anyone doesn't know what that means, please don't google it. You're happier that way, trust me.

Posted by: Bernard Scharp | Wednesday, 26 January 2011 at 08:29 AM

and this is being passed on to others right now.
I do know museums, galleries & collectors in NY... they are getting the link to this in this AMs email...

maybe AXA, etal will appreciate the pr.:)

Posted by: richard laughlin | Wednesday, 26 January 2011 at 08:34 AM

I'm not usually a very litigous person, but in this case, not suing the auction house is letting them get away with crap like this. If not for yourself, sue them for, yes, justice. If you don't want the money, you can still donate what's left after expenses to something you think is worthwhile.

Posted by: Friedrich | Wednesday, 26 January 2011 at 08:40 AM

Bummer.

Posted by: John Brewton | Wednesday, 26 January 2011 at 08:44 AM

(1) The title of this post, as footnoted, is very appropriate.

(2) Man, sometimes I really wish I had a soapbox like this. Please don't misunderstand this comment: it is not meant to imply that this column was in any way inappropriate - it wasn't. It was very interesting to read a behind-the-scenes account of what is involved in such an auction and the perils associated with it. And I have absolutely zero problem with calling someone out for bad behavior like this. I'm just jealous.

Posted by: amcananey | Wednesday, 26 January 2011 at 08:59 AM

Ctein, once this post gets lodged in the Google for all people searching for Guernseys + damage, you'll get your $5000 back---at least in terms of revenge karma.

Posted by: Justin Watt | Wednesday, 26 January 2011 at 09:18 AM

If I were you, I'd sue the insurance company, since you paid for the policy there is no reason for them to have included Guernseys in the release. That seems like potentially actionable fiduciary misconduct. Of course, what really happened I'm sure is that Gurnseys' took your money and bought themselves a policy with, perhaps, you as an additional named insured, but a good lawyer could make out a theory here.

Of course, if you are in the happy position of being able to accept the loss, then there's no question that it would be much less trouble to simply take what you have and move forward, since there's little chance that any of the parties involved will actually change their ways even if they are successfully sued.

Posted by: MarcW | Wednesday, 26 January 2011 at 09:23 AM

Wow, what a scary, cautionary tale, Ctein. I'm sorry to hear about your loss Fortunately, I don't believe the auction world is ready for pictures of my dog, so I'm safe for now! :)

Posted by: DF | Wednesday, 26 January 2011 at 09:27 AM

That really is terrible treatment, blame their lawyers (and them for spinelessly accepting their lawyers' advice).

Some lawyers will advise that you take responsibility and apologise (and pay what will likely be a minor settlement)and others will advise that you deny everything and let the aggrieved person sue (guess which one allows the lawyer to bill more).

It always goes to hell when lawyers get involved, I tell that to all my clients. I know that few enough will listen to me that I will never lack for work.

Terrible that you should have been treated in such a cavalier manner and hopefully this article will spread far and wide enough to impact their potential bottom line. Then they will break down doors in their rush to make nice.

Posted by: Nikhil Ramkarran | Wednesday, 26 January 2011 at 09:29 AM

A very interesting story. Thanks for sharing.

The downside is that your post will likely bring out many armchair lawyers and insurance experts who will tell you what you should do or should have done. Such comments are often based on gut feelings or half-understood legal principles and are best ignored.

Posted by: Andrew | Wednesday, 26 January 2011 at 09:40 AM

Sad business.

Oddly, i've lived in NYC for twenty years, but never heard of Guernsey's. Now i suppose i know why....

I do believe, though, that if legal action is a recourse, you ought to pursue it. I once had to sue a watch dealer in Texas for some shenanigans. I did so even though i knew i might be putting myself further into the 'hole.' And knowing that i would have to fly to Effin Texas for court. I tend to do things based on principle, even if they are to my detriment, and i'm then happy with whatever result.

The TexaBastard eventually settled, one day before i was to fly to Dallas. But, i was more happy with how i handled the matter. Right is right, and principals ought not be disposable. I fully understand that not all situations are so simple/cut and dried. Good luck to you, sir.

Posted by: CK Dexter Haven | Wednesday, 26 January 2011 at 09:42 AM

Auction houses do not treat photographs very carefully at all. I've been to preview of auctions where low price prints (starting at about $1000) are mounted unprotected on walls. Anyone could just touch, maul, lick, or even steal a print. It was very eye-opening for me.

Posted by: K. Han | Wednesday, 26 January 2011 at 10:01 AM

So now they have the photos with the damage, but if some of these are rare, wouldn't they still have value with the damage? Also, how much of the damage is such that if framed it wouldn't be noticed? The next shoe would seem to be when you see this back up for auction or sale, perhaps at Guernsey.

Posted by: Fred | Wednesday, 26 January 2011 at 10:04 AM

You might consider filing a report on Guernsey's with two agencies: New York City Dept of Consumer Affairs and the NYS Attorney General's office.

If there is a pattern of abuse on record the agencies might decide to go after Guernsey's on behalf of the stiffed customers.

Posted by: Bruce Appelbaum | Wednesday, 26 January 2011 at 10:08 AM

A very rational decision to not sue. For some folks, litigation as revenge is satisfying, for most it is not.

However, I would file complaints with the NYC Better Business Bureau and the NYC and NY State consumer fraud agencies. This will give others fair notice, and the BBB might actually put some pressure on the auction house to cough up the $5000. I think the policy is fine - it would cost a lot more to get rid of a deductible. If you are paying for it, however, as suggested you might want to be real named insured so the gallery is in the release. I suspect that might be something NY State insurance commission would like to hear about.

How about another post about the auction business and why reserves are a problem?

Posted by: Ed Richards | Wednesday, 26 January 2011 at 10:11 AM

I have had my own business for 30 years and I can state as absolute truth that the most powerful form of advertising on the planet is word-of-mouth. Both good and bad.

I can see the point of going after the 5k, the principal of the matter, but I can also imagine that you have other more uplifting things to do with your time than wrestle in the mud and slime of litigation with unprincipled nefarions.

As I got to the end of the article, I realized what you had intended here, and I think you did a masterful job: word-of-mouth is even now expanding outward, a wave of truth whose ultimate worth will far exceed a measly $5k.

The dumb clucks really shoulda paid you off...

Good job, Ctein, best wishes...

Posted by: Greg Smith | Wednesday, 26 January 2011 at 10:23 AM

Too bad we can't get the other side of the story too. It doesn't seem as if they have a leg to stand on, but I'd still like to hear it. Even Charlie Manson had a story.

Posted by: Player | Wednesday, 26 January 2011 at 10:24 AM

Since the behaviour of Guernseys was so clear-cut and apparently rehearsed, I'm left believing that you're likely not the only one who's had such problems with them. What astonishing behaviour on their part.

Posted by: Bahi | Wednesday, 26 January 2011 at 10:34 AM

Amazing how when they damage your work it suddenly becomes "just a photograph" and you suddenly become just an annoying photographer.

Fortunately, Guernseys is an easy name to remember. I certainly will!

Posted by: David Kachel | Wednesday, 26 January 2011 at 10:43 AM

I am sorry to read of your bad experience with this auction, Ctein. Very shoddy handling, indeed.

I am not at all surprised to read that this work did not sell well at a Guernsey's auction. If you regroup from this battle and resolve to make another attempt at selling it may I suggest using a dealer instead of an estate auctioneer/liquidator (which is what Guernseys is)? There are dealers who specialize in representing music history collectibles such as this. Their audiences tend to be more specialized true believers who would value this work far more than the art world ever will. Your best prospective buyers are probably overseas, and most probably in China and Japan. So look for a dealer that can reach those markets.

Posted by: Ken Tanaka | Wednesday, 26 January 2011 at 10:51 AM

I believe that in NY a corporation has to be represented in small claims court by an attorney; you might be able to be represented by a friend, with the appropriate documentation. This used to cause some companies to settle or not show up because the legal fees were more than the amount in question. There is at least one small claims court that some corporate type lawyers wouldn't go to, because of the dicey location. You'll have to check this out with a NY based attorney; maybe someone reading this will step up and verify whether or not I am correct.

Posted by: Peter Mellis | Wednesday, 26 January 2011 at 10:52 AM

Justin, about your comment of getting back in Google, if you google "Guernseys + damage" this article is #5 in the list. Not bad for a day. Let's get it to #1!

And sorry for your loss Ctein.

Posted by: Alberto Castro | Wednesday, 26 January 2011 at 11:08 AM

Ugh, sorry to hear about this Ctein. Maybe some tech geniuses out there can get this blog posting to be the #1 hit when Googling Guernseys. (Similar to Dan Savage's handiwork when you Google "santorum".)

Posted by: HT | Wednesday, 26 January 2011 at 11:26 AM

This unfortunate story reinforces why I carry insurance at full market value (current appraisals) for my photograph and book collection. The rider to my home policy covers all instances, with no deductible. The comfort provided is well worth the annual cost.

Posted by: Jeff | Wednesday, 26 January 2011 at 11:27 AM

Ctein, Did AXA allow you to retain the damaged photos? If so, could they not be sold at a reduced price to help offset your loss?

Posted by: Califlefty | Wednesday, 26 January 2011 at 11:33 AM

Submitted to reddit. Lets see what happens.

Posted by: Archer Sully | Wednesday, 26 January 2011 at 12:00 PM

Bernard Scharp: "...of course, for the traditional internet backlash vs Guernseys to work, we readers need to link to this from as many places as possible, right?"

It's only been up for a few hours and it's already in the top 50 Google results for "Guernsey's auction house photographs". I wonder how many links it will take to get it to the top ten?

Posted by: Ed Gaillard | Wednesday, 26 January 2011 at 12:04 PM

"Man, There ain't no peace no where..." -Jimi

Posted by: Chris Y. | Wednesday, 26 January 2011 at 12:11 PM

I'm sorry to hear of this Ctein. All of this is such a long way from my own expertise that I cannot contribute anything of value to the essence of the argument. FWIW, my own reading of the AXA clause is that it doesn't stop you from going after the auction house for the missing 20%: whether that is VFM is up to you. It does sound as though you have been short-changed.

However, a different take. You are "out of pocket" some $7000, based on your valuations of the prints to be sold (20% loss on $35,000). You only put a reserve on one picture, so it is possible that the others could have sold for less than the $28,000 you did receive from the insurance company. If that had happened, how would you have felt in comparison with how you feel after what is surely poor treatment by possibly colluding entities? I'm trying to see a bigger picture.

In addition, are the remaining damaged prints completely worthless? I'm not being deliberately obtuse. I myself would happily buy a print with some minor damage for a few hundred dollars (and I mean that sincerely - Mike has my email address), but I could not afford the full price you set in the auction

Posted by: James | Wednesday, 26 January 2011 at 12:16 PM

Great head's up. I deal with many auction houses and do relatively large dollar amounts both buying and selling, but will now put them on my black list and stay away. Everyone makes mistakes but their complete lack of professionalism and their unwillingness to take any responsibility make them an embarassment to the industry.

Posted by: SF Dealer | Wednesday, 26 January 2011 at 12:36 PM

It will interesting to see how long before this TOP posting climbs near the top of Google and Bing searches for Guernsey's auction house. Mike gets a lot of traffic. If a sizable percentage of viewers click on "Continue reading..." or "Comments," Guernsey's may rue the day they dealt out such shabby treatment.

Business Rule #1: we are all connected.

Posted by: latent_image | Wednesday, 26 January 2011 at 12:58 PM

Dear Marc,

I probably wasn't clear enough in my writing: Guernsey's took out the insurance policy; I didn't. I merely paid for it. Not the same thing. That was all spelled out clearly in my contract with Guernsey's before we did the auction, and I had the option of declining to have them purchase insurance. Being cautious by nature, I did not decline insurance. And isn't that a good thing!

If I had been the policyholder, then the release wouldn't have mentioned Guernsey's at all. On the other hand, I also wouldn't have had any reason to expect my $5000 deductible to be paid by the insurance company.

~~~~~~

Dear Nikhil,

Well, my sister is a lawyer, some of my closest friends are lawyers, and my Other Significant Other is a lawyer. Just so everybody knows that I've got no problem with lawyers whatsoever. I even thought about becoming one at one point.

BAD lawyers will recommend clamming up and letting the aggrieved party do whatever they're going to. It's a poor strategy. As my first attorney, the late Fred Gottfried, would tell me “If you want justice, go to a whorehouse. If you want to get screwed, go to court.” He had that on an embroidered sampler hanging in his office.

The essence of good lawyering is to try to talk things out so that you never end up in court. As I said, there are ways to make nice that are legally noncommittal. But one of the least productive things you can do, if you're trying to avoid a fight, is to refuse to talk to the other side.

Guernseys lawyers may have advised them not to talk to me directly, but then I would've expected to hear something from the lawyers. If they were decent lawyers, that is.

We don't even know that lawyers were involved-- all hypothetical. Guernseys could have acted poorly entirely on their own.

pax \ Ctein
[Please excuse any word-salad. MacSpeech in training!]
==========
-- Ctein's Online Gallery http://ctein.com
-- Digital Restorations http://photo-repair.com
==========

Posted by: ctein | Wednesday, 26 January 2011 at 01:05 PM

I just sent their Prez an uncomplimentary email.
Feel free to join in.

Doug R.

Posted by: Doug Rice | Wednesday, 26 January 2011 at 01:34 PM

I just went and visited the Guernseys web site and the very prints you had damaged are still on their web site for sale.
~~~~~~

Including: Jim Marshall Signed Dye Transfer Photo, "Jimi Burning Guitar"

Posted by: John Krill | Wednesday, 26 January 2011 at 01:36 PM

Ctien,

I didn't know what was to follow after the "Continue reading..." link. Now I've read it, I can say this: you've handled this constructively, reasonably, and maturely. I cannot say the same for your counterpart.

Consider this: the last word are your standards. In any case, regardless of what happens now (which includes nothing, using a lawyer, or some other recourse): your standards should remain intact. I can't possibly imagine this company doing business like this in the longterm.

Pak

Posted by: Pak-Ming Wan | Wednesday, 26 January 2011 at 01:45 PM

Under no circumstances should you sue the insurance company. Ignore anyone who tells you to do so. Defendants in lawsuits can, and often do, file counterclaims. You'd be amazed at the reasons that can be dreamed up for a counterclaim when the person is already in court because of your lawsuit (i.e. what do they have to lose by attaching a counterclaim to their answer?). Then all of a sudden you're not just a plaintiff, you're now a defendant too. And instead of being able to drop your suit if it starts getting too expensive or time-consuming you now have to defend yourself against the counterclaim(s)to the bitter end. For $5,000 it's not even close to being worth it.

Posted by: Jack Spratt | Wednesday, 26 January 2011 at 01:49 PM

Ouch! Sometimes nothing works out they way it should and it's pretty much impossible to prepare oneself for such an eventuality. The moral of the story? There is none as far as I can see.

On the bright side, you at least have the insurance money, which is more flexible capital than the prints.

This actually made me think a bit about the future about fine printing. In the darkroom, there was a lot of manual work going into the creation of a single print. Wit digital, most of the work goes to preparing the file, after which it can be printed plenty of times and reprinted later, making the concept of unique prints and print runs a bit muddier. I don't know much about the art business, but I'm sort of hoping that this would be a subject for one of your future columns ;-)

Posted by: Oskar Ojala | Wednesday, 26 January 2011 at 02:45 PM

Here's how to make a small fortune in Art Business / Publishing / Whatever:

Start with a large fortune.

Posted by: Christer Almqvist | Wednesday, 26 January 2011 at 03:33 PM

Wow, and I thought I'd had some bad experiences (with galleries)! I had to sue one (in the Northeast US) years ago. Never recovered what was due me, but at least had the satisfaction of making the owner unhappy. Anyway, I hope the word really does get out (viral) about Guernsey's. Thanks Ctein for sharing this unpleasant disaster with us. By the way, I spent an evening and dinner with Jim Marshall a couple of years before he died. A memorable night I can assure you.

Posted by: Tony Bonanno | Wednesday, 26 January 2011 at 03:34 PM

My worst experience along these lines was sending an original print to a magazine for reproduction. I wrote all over the package that the print was irreplaceable and needed to be handled with care and returned, underscored that point in conversations with the editor and the managing editor, etc., etc.

The print was returned in a plain manilla envelope, completely unprotected, and was damaged to an almost comical degree: it didn't *quite* look like someone had wadded it up in a ball and then smoothed it flat again, but very close. There were tears, wrinkles, creases and crimps all over it.

I was not reimbursed.

(Ctein wrote for the same magazine at the time.)

At least that was better than the case of the rare 1939 fine print (one of four in existence) I sent to a NY art magazine for repro. Despite repeated efforts to get it back, they simply kept it. Fortunately, I own one duplicate of that one.

Mike

Posted by: Mike Johnston | Wednesday, 26 January 2011 at 04:01 PM

it is truly a shame to lose historic--and good--artworks. every time.

Posted by: chris | Wednesday, 26 January 2011 at 04:14 PM

Just to avoid any misunderstanding, I'm a lawyer too (well its the day job anyway). And like you, Ctein, I think the best way to sort things like this out is to talk to the aggrieved. I also think this is a position all lawyers who have their client's interests first in their minds, will do.

Unfortunately, I know rather more lawyers whose eyes are firmly on the bottom line than those who will do the right thing.

You are right though, lawyers aren't always to blame (just mostly :).

Posted by: Nikhil Ramkarran | Wednesday, 26 January 2011 at 05:16 PM

Oh come on. Nobody's going to say it? *You start with a large fortune!*

Posted by: Dennis | Wednesday, 26 January 2011 at 05:30 PM

I get Ctein's point, and the points made by the others here, but it also seems to me that, in the end, Ctein got a whole lot of cash for potentially-difficult-to-sell art, whose value is highly subjective. And we have one piece of recent evidence (just one data point, I know) that the market is soft.

This is not to excuse the appalling behavior of the auction house, of course.

But really, Ctein, it seems you ended up more than OK.

--Marc

Posted by: Marc Rochkind | Wednesday, 26 January 2011 at 07:53 PM

Companions to their actions, in due course the principles at Guernsey will inherit the results. As you will yours and AXA theirs.

Listening to the ugly events I'd much rather be in your shoes (even short several prints) or AXA's (even $23,000 poorer) than standing anywhere close to the the guys at Gurnsey.

And thanks for the calmly told cautionary tale.

Posted by: Alistair Williamson | Wednesday, 26 January 2011 at 09:34 PM

Ctein, I just wanted to add my condolences to the already long list and just say that in my opinion you were right not to sue for the deductable. I am sure you had good advice on that one and better things to do with your life.

At least they were insured and the insurance company played fair.

At the end of the day a salutary lesson but one that I hope will cost the careless barstewards a lot of lost business.

Regards
Steve

Posted by: Steve Jacob | Wednesday, 26 January 2011 at 10:42 PM

Dear Fred & Calilefty,

There is not so much pent-up demand for Jim's work that damaged photographs go for much money. Not according to my agent nor Jim's estate. In any case, since the photographs went to the insurance company as salvage, it's out of my hands.

I probably wouldn't sell them, even if I could. For the small amount of money they would bring in, it would not be worth the risk of depressing prices for others of Jim's photographs. If I still had them, I would probably just give them as gifts to friends.

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Dear Ken,

Thanks for your condolences. I do have an agent for the work, at least here in the US. He has sold some of it already for me. At very decent prices. I don't know what kind of contacts he has overseas, if any. I wouldn't know how to contact such a dealer if he doesn't.

Having tried the auction experiment once, and got results which ran from bad to worse, I think I shall forego my usual role as a scientist and not try to determine if the results are repeatable. [Wry smile]

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Dear James & Marc,

That's exactly how I feel about it. I'm grateful for the $23,000 I got. In a situation like this, where prices are clearly in flux and equivalent sales difficult to come by, a sleazy insurance company could have lowballed me or strung it out for the better part of forever.

I do need to remind you, Marc, as I alluded to in the article, that I have been selling off the collection through my agent. We've been getting the prices that Guernseys used for “estimated street value” in the auction. The current art market is, indeed, horribly soft, but it just means the pieces have been selling more slowly than they would have in a hot market. They haven't been selling for any less.

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Dear John,

I think what you're seeing is just a link to the catalog for the auction that happened last September. Auction houses will sometimes leave old catalogs up so that people can see the kind of works they've presented in the past. Nothing wrong with that.

If you think it's more than that, please e-mail me (ctein@pobox.com) the specific URL and I'll look into it.

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Dear Mike,

Back in the 1980s, American PHOTO paid me THREE times for the same photograph/usage. They wanted to feature one of my dye transfer prints. After they got it, their printer ruined it. They stepped right up, called me, apologized and said they would pay for the print and asked me to send a replacement. So I did. Then someone screwed up and shipped the print back to me, uninsured (contrary to instruction), in a flimsy mailer that got mangled by the post office. So they paid me yet again. On top of the not inconsiderable reproduction fee for use in the magazine.

I made out rather well on that one usage.

I call such things Sales to God.

pax \ Ctein
[Please excuse any word-salad. MacSpeech in training!]
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-- Ctein's Online Gallery http://ctein.com
-- Digital Restorations http://photo-repair.com
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Posted by: ctein | Thursday, 27 January 2011 at 12:14 AM

I'm pretty sure this article will, or already has, cost Guernsey's that $5000. I'm very sorry for the damaged prints and money out of pocket though...

Posted by: Jani Turunen | Thursday, 27 January 2011 at 04:55 AM

It's a good thing that you retained your photos. It appears that you and the the insurance company agreed that the photos were "totalled." If it had been a car, in my experience, the insurance company would have taken possession. One adjuster said to me, "You can have the car or you can have the check, not both."
As an earlier writer suggested, if you are willing to sell the damaged photos for a reduced price, I'll bet a lot of your readers would get in line.

Posted by: DC Wells | Thursday, 27 January 2011 at 05:06 AM

What I got from reading about Ctein and Mike Johnston's experiences is that sending valuable artwork to people who haven't paid for it outright and therefore don't have a vested interest in its preservation can be extremely risky. Doing so without insurance is risky to the point of being foolhardy. The fact that even as reputable and honest a publication as American Photo damaged not one but *two* of Ctein's prints (and later paid for both) says that even with the best of intentions, stuff happens. IMHO, one moral of this story is that if you (the universal you, not Ctein specifically) can't afford to lose something, then you can't afford to send it to places where it's care and safe return are not under your control.

Posted by: Gordon Lewis | Thursday, 27 January 2011 at 07:20 AM

Good onya Ctein - well written response to being given an inadequate response to your real problem. And a lovely demonstration of the power of the internet to exact a different type of justice. The response so far to the post echoes the delightful United Breaks Guitars YouTube music video by Dave Carroll,(http://www.youtube.com/watch?v=5YGc4zOqozo) posted in frustration after a year of failing to get United Airlines to compensate him for breaking his guitar. So far, **9.8 million** views, and climbing. Probably safe to assume that United's marketing execs would have preferred that the company forked up the $1200 claimed with a gracious apology. I wonder if your Guernseys friends might be now thinking similarly?

Posted by: Peter | Thursday, 27 January 2011 at 07:29 AM

Yesterday, just before I read this post, I had been at the main local Library where there are posters on the walls about local places and people. One has a photo of Pete Townshend of The Who on stage (with if I remember right) an inset photo of Jim Marshall. Not the photographer, but the guy who started Marshall Amplification, who are based here in Milton Keynes.

I'm not sure if I've got it right because I didn't know I was going to write about it here, but the poster says that the guitars Pete broke were glued back together by Jim, ready to be broken again next time on stage after a quick swop with the playing guitar. The only damage to speakers or amps were to the easily repaired front cloth.

I, too, have been had by insurance companies and/or lawyers. Received wisdom amongst the bikers round here is to inflate your claim to offset the way the insurance companies reduce your payment in any way they can. The only way to get what you deserve.

Posted by: Roger Bradbury | Thursday, 27 January 2011 at 08:55 AM

Man, Ctein, that is a bummer. Not just having that happen but having to deal with the aftermath. People need to stop paying attention to money and start worrying about how they treat others and doing the right thing.

Posted by: JonA | Thursday, 27 January 2011 at 11:56 AM

As someone who hopes to get in on the Charles Cramer sale and as someone who has only handled his own mediocre lab-printed prints, could you recommend a good primer on how to properly handle prints? What should I look for in a framing outfit? What questions should I ask?

I suspect there a lot of amateur photographers in my situation; only ever shot digitally, never been in a darkroom and don't know the first thing about preserving fine art photographs.

Posted by: Richard | Thursday, 27 January 2011 at 12:08 PM

If you Google 'Guernseys', 'damage' and 'auction' this post already comes up as #1 or 2. Hope it gets around in the photographic community and causes them significant heartburn.

Posted by: Tom | Thursday, 27 January 2011 at 04:12 PM

I'm reminded of a joke.

How do you make a Small fortune in business?

Start with a large fortune...

Now, having been in the right place and right time to have an iconic photo SHOULD be a decent way to make a fairly decent amount of change...

Posted by: Al Patterson | Thursday, 27 January 2011 at 05:09 PM

@ Richard:

Good peripheral inquiry. Photographic preservation is actually a very vibrant subsection of the larger field of art preservation. I think you'll find useful information and links at Art Support.

Posted by: Ken Tanaka | Thursday, 27 January 2011 at 06:53 PM

Just feeding the Google-bot.....

Guernsey

Sharp practises

Guernsey

Untrustworthy

Guernsey

Avoid

Guernsey

Unprofessional

Guernsey

Posted by: James | Thursday, 27 January 2011 at 08:07 PM

I should just add that since Ctein has verified my suspicion that though he paid for it, the insurance was in Guernseys' name, I agree with all of the comments to the effect that the insurance company is out of the picture. My hatred of insurance companies gave me a bit of false hope there for a second. (You know how you normal people feel about lawyers? That's how most lawyers feel about insurance companies. We hates them, we hates them forever, Precious.)

I've linked to this in my own blog, which gets about three hits a month, but if all of you with actual readership do the same, as has been pointed out as well the karma bill for Guernseys' will soon exceed what it would have cost to make things right for Ctein.

Finally, while I think it's quite reasonable and rational for him to say, "Well, I got something more than I might have gotten at the sale, I don't need the money that bad, and I'd rather just move on," I don't buy the argument that he's not actually out much. The insurance company agreed on what the pictures were worth. They, and Guernseys, are morally estopped from then making arguments about how he's not really out anything by not getting the deductible because the price is not readily ascertainable and he might have taken less in a hypothetical universe where all the prints sold. If they really believed that, they were in breach of their duty to their shareholders by offering him what they did in the first place.

Posted by: MarcW | Friday, 28 January 2011 at 09:44 AM

Sorry... just can't agree with the "take your loss and move on" advice.

Guernsey's behavior is appalling. Torture the bastards. Small claims court, complaints to the BBB and NY Attorney General, AND online postings such as this one. Yes, it will take some time and effort. But it will be worth it.

Guernsey's is treating you this way based on the calculation that doing the wrong thing will be cheaper for them than the $5K cost of doing the right thing. If enough people stand up to them in circumstances like this, the calculation-- and their behavior-- will change.

Posted by: Chaz L | Friday, 28 January 2011 at 01:01 PM

I'm looking for a reliable, professional auction house in New York that will sell my rare and expensive collection of original, signed and numbered limited-edition photographs, dye transfer prints and Ultrachromes. They must have a solid reputation, built over decades, of obtaining the highest prices for photographs. They must also be known for taking meticulous care of original artwork, for taking out the proper insurance, and for stepping up promptly and taking responsibility in those rare instances when, despite their best efforts, a piece of artwork gets nicked or bent or otherwise damaged while in their care. Based on my research, it looks like Guernsey's Auctions in New York will be the best choice for this photography auction. Just wondering whether anyone here has any firsthand experience with Guernsey's and can give me some tips on dealing with them? Thanks in advance!

And that is one more way to feed the Google. :)

Posted by: Nathaniel | Friday, 28 January 2011 at 05:04 PM

Ctein,

As I am writing from a not-so-rich European country, I think that some of the musings on this blog are so peculiarly American and so immersed in the imperial culture. I'd like to put attention to some inaccuracies in your reasoning, if we put the great rich imperial thinking aside:

- You state those prices as given, the 35,000 as given. They are not given, this is the bounty of the market you have there in the US and in the year 2011. Imagine in some other country, there may be no 15 prints in the whole country, ever, that would catch that amount. So please consider yourself very lucky; next:
- You state that you lost the prints. This is a lie - you didn't. You state that the 35,000 is the monetary loss, but the real loss is much more. Well, if you "lose" a print by one crease, then it means that monetary loss is what's important to you. Look at older paintings. Look at Japanese scrolls, also executed on paper medium. No amount of creases will destroy them. Some creases are even natural with age. So no, you didn't lose the prints. You kept the prints and you got a lot of money back from insurance. Which is not such a bad deal.
- You state that Guernsey could just humanly sympathize with you. That stance would be logical, if you had no intention of going after their money. But you did later try to go after their money. Very much so. So their lack of sympathy can be very well understood, although not justified.
- Imagine you are living in a society where there is no insurance to cover for all troubles, but where people have to pay for their own wrongdoings. Then, by the jungle laws, the amount for creases would be deducted from the paycheck of the person who matted the prints, who may not make such amounts in the first place. Would you think this justified?

Posted by: Observer | Saturday, 29 January 2011 at 10:13 AM

Dear Observer,

I'm not going to get into the bizarre cultural differences and expectations (and I do think many of them are very bizarre) or hypotheticals. But, one correction of fact:

1) As I said, I did not get to keep the prints. I only did not have to send them to the insurance company until after the settlement. A condition of settlement is that the insurance company gets the salvage.

pax / Ctein

Posted by: ctein | Saturday, 29 January 2011 at 12:51 PM

After reading this:
http://blogs.reuters.com/felix-salmon/2010/12/28/a-guide-to-the-market-oligopoly-system/

It makes me think that ctein was lucky to get the insurance proceeds.
Ten more years and people will be asking "Jimi who?"

I'm quite sympathetic about the poor treatment of your property, but I wonder about the long term value of the work.

Posted by: Jack | Sunday, 30 January 2011 at 09:42 AM

Dear Jack,

This is precisely why people should never think they can INVEST in art. While people will not be asking, "Jimi Who?" in ten years (I know that was hyperbole), how much they'll be willing to pay for a famous photograph of "Jimi Who" is a complete unknown.

I could engage in extended analysis and musings about the different factors that will affect the future prices of Jim Marshall photographs, but it would all sum up as "Damfino." Nobody does.

Fortunately, I am not trying to recoup an investment. My collection is gift prints that Jim gave me over the years. It's the only thing I have that is any kind of a nest egg for me, so I've decided I want to be converting it to cash as quickly as is prudent. I'd rather have (and am entirely grateful for) what money I can get now, than what I might get in 10 years.

Ten years from now it's quite possible it'll turn out I made the fiscally wise decision. It's equally possible that if I waited, I'd be seeing enough money to comfortably retire on.

Shrug. I'm not a gambler, and greed is a reliable path to economic ruin. What I get now, I get.

pax / Ctein

Posted by: ctein | Sunday, 30 January 2011 at 01:30 PM

Since the behaviour of Guernsey was so clear and apparently settled, I still believe that you are probably not the only one who had problems with them. What is the puzzling behaviour on your part.

Posted by: magazine printing company | Monday, 31 January 2011 at 11:01 AM

The comments to this entry are closed.