

## Withers recap of Legal Issues in Museum Administration 2019

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**CATEGORY:**

ARTICLE

**CLIENT TYPES:**

ART AND CULTURAL INSTITUTIONS

CHARITIES AND NON-PROFIT

PHILANTHROPY



Last month, the Legal Issues in Museum Administration conference, which provides focused guidance on the legal and business issues that have impacted the museum world for over 40 years, was held in Washington, D.C. The event was attended by museum in-house counsel, museum directors, other museum and non-profit professionals, and outside counsel, and covered a broad array of topics affecting museums today.

Withers participated as a sponsor of the conference, and Diana Wierbicki, head of Withers' global art law practice, and Alana Petraske, of Withers' global philanthropy and nonprofits group, were in attendance.

### Take-Aways from Legal Issues in Museum Administration 2019

#### Litigation (art)

There have been many recent cases in the art market related to artists' rights, authenticity, copyright, ownership/restitution and tax/bankruptcy. Museums should consider insurance against risks to protect against many of these issues, being mindful of the type of coverage sought (property, place or people).

Dean Nicyper, Eleni Polycarpou, Kimberly Almazan and Simon Chadwick are part of Withers' cross-border litigation and can address any questions you have regarding recent cases.

#### Transactional (art)

From a transactional standpoint, the Tax Cuts & Jobs Act is expected to have a significant impact on museums. In addition, other developments such as UBIT "Silos" and other constructs were explored.

Withers' global team including Diana Wierbicki, Celia Lloyd Davidson, Amanda Rottermund and Sarah Verano can address any questions on transactional issues which you may have.

#### Employment

A large focus was on remote working arrangements. FLSA and many state laws are impacting overtime and minimum wage laws, and reasonable accommodations include work from home or leave. Other topics discussed include employment in the age of the #METOO movement as well as union organizations and protected concerted activities.

At Withers, Brooke Schneider handles a variety of employment questions for galleries, museums, dealers and collectors as well as compliance and handbook drafting.

#### Privacy law and data compliance

The European Union's General Data Protection Regulation (GDPR) continues to be a growing concern in the area of privacy law and compliance. It is important to cross-reference a to-do list to ensure your organization is compliant with its rules.

Withers' Kenneth Mullen frequently advises clients on this topic and can answer any questions you may have.

## Immigration

Three key aspects of immigration and immigration documents that arise for museums are work authorization, entry into the US from abroad and continued presence in the US. Speakers discussed various visa options to consider, as well as the impact of the travel ban and DACA.

At Withers, Reaz Jafri and Theda Fisher handle a variety of visa applications for artists, musicians and galleries.

## General museum gifts/planning

The conference focused on novel collection challenges facing museums. Museums rely on philanthropic gifts but must also safeguard their reputations as a priority. Attendees were reminded that 'controversies of association' can be extremely damaging, but that proactive planning can help to limit the risk.

We frequently help institutions with appropriate policies and procedures in relation to gift acceptance and refusal, naming, 'know your donor', and of course the drafting of suitable gift agreements for donors and for institutions. Reach out to Withers' cross-border team including Alana Petraske, Lawton Leung, Steven Chidester and Paul Roy for more information.

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