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DAILY BRIEFS

Judge tells museum: Don't move van Gogh painting

DETROIT (AP) — A judge on Wednesday ordered a Detroit museum to hold onto an 1888 painting by Vincent van Gogh in response to a lawsuit by its owner, who claims it has been missing for nearly six years.

The painting, titled "The Novel Reader" or "The Reading Lady," is part of a rare van Gogh exhibit, which ends Jan. 22 at the Detroit Institute of Arts.

Brokerarte Capital Partners LLC and its sole proprietor, Gustavo Soter of Brazil, acquired the painting in 2017 for \$3.7 million, but a "third party" took possession of the art, according to the lawsuit.

"Plaintiff has not known the location of the painting," the lawsuit states. "Recently, however, plaintiff learned that the painting is in the DIA's possession, on display as part of the museum's 'Van Gogh in America' exhibition."

The lawsuit seeks to have the painting turned over to the owner. U.S. District Judge George Caram Steeh barred the museum from moving it, a temporary step before a court hearing on Jan. 19.

The painting is worth more than \$5 million, according to the lawsuit.

The museum declined to comment on the dispute but said "no allegation of misconduct by the DIA has been alleged."

The oil-on-canvas painting indicates that it's on loan from a collection in Sao Paulo, Brazil. It is one of 80 van Gogh works in the exhibition and remained on display Wednesday.

"The loan was accepted in accordance with best museum practices and is subject to the protections of applicable federal law through registration with the U.S. Department of State," the museum said.

SBM encourages attorneys to take part in National Day of Service

In honor of Martin Luther King Jr. Day and the National Day of Service, the State Bar of Michigan encourages attorneys to celebrate the day by volunteering.

The SBM Diversity and Inclusion Advisory Committee compiles resources for attorneys to find volunteer opportunities and events happening in local communities throughout Michigan. These resources can be found online at michbar.org/mlk.

Martin Luther King Day is Monday, January 16. Federal legislation declared the holiday a "Day of Service" in 1994, encouraging Americans to volunteer to improve their neighborhood and surrounding communities while celebrating Dr. King's life and legacy.

Attorneys participating in volunteer activities are also encouraged to share their stories of service (and photos) by visiting www.michbar.org/alawyerhelps/stories. The most compelling stories of service will be featured on the A Lawyer Helps webpage.

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In the Works

Annual Business Law Symposium to feature artistic look on Feb. 16

BY TOM KIRVAN
Legal News

The time-honored phrase of "getting better with age" would certainly apply to the 5th Annual State Bar of Michigan Business Law Section Symposium, scheduled for Thursday, Feb. 16 at the Detroit Institute of Arts.

Troy attorney Mark Rossman, who has served as the organizer of the event since its inception, has put together another blue-ribbon list of panelists that includes a number of prominent attorneys from the bench and bar.

And then there's the venue – the magnificent Diego Rivera Court at the DIA, where the masterful work of the famed Mexican artist will serve as the backdrop to the program that is scheduled from 5:30-9 p.m.

"The title for this year's event, 'The Art of the Practice,' kind of came up naturally as the DIA was selected as the location, and, if you think about it, the practice of law is really an artform," said Rossman, a University of Michigan alum who heads a business law firm that bears his name. "And, of course, it's the fifth year in a row we've done this . . . it seems like just yesterday we were doing this program with more speakers than audience in attendance, whereas last year we exceeded 150 participants and raised over \$50,000."

"It's really going to be a beautiful event," added Rossman. "The Diego Rivera Court at the DIA is what most people might agree is one of the shining jewels of the city. And it's really an honor that the State Bar of Michigan Business Law Section is going to be able to really shine there with some of the brightest stars among the local field of judges and lawyers."

Among the highlights, according to Rossman, will be a roundtable discussion on "Corporate Oppression and Fiduciary Breach" from 7:20-8 p.m. "For the fourth year in a row, the 'Godfather of Corporate Oppression Law,' Professor Douglas Moll is flying in from the University of Houston Law Center to join a roundtable with two of the top practitioners in field, Justin Klimko from Butzel and Daniel Quick from Dickinson, with Michelle Harrell moderating. Those could be some of the top commentators on this area of law in the country right now, and that's not an exaggeration. So, this is going to be great."

In addition, among the featured panelists for the February 16 event will be former Wayne County Circuit Judge Lita Popke, now a mediator with JAMS in Detroit, and Oakland County Circuit Judge Victoria Valentine. Popke will deliver an address titled, "Settling the Case," while Valentine will present a lecture on "The Business Courts."

"The judicial perspective will be shared by Judge Valentine and retired Judge Popke, which will be really interesting, as they're both fantastic jurists," said Rossman. "To have perspectives from a newly appointed Business Court judge and a recently retired Business Court judge now doing mediation, there's a lot to talk about there. I think a lot of people are really looking forward to these presentations."

Van Conway, a financial adviser and business turnaround specialist, will take part in two programs at the Symposium, presenting a lecture on "Selecting an Expert," and then as one of the panelists in a discussion on "Experts, Settling & The Business Courts."

Attorney E. Powell Miller, of The Miller Law Firm in Rochester, will cap the evening program with a presentation on "Cross Examining the Hostile



Justin Klimko



Daniel Quick



Mark Rossman

Witness" from 8-8:45. "We've got two guys who have probably been involved in, and won, more trials than most lawyers even get to think about in their careers, some heavy hitters who aren't afraid to tell you what's on their mind," Rossman said of Conway and Miller. "Van is going to tell us how to choose an expert, and Powell is going to give a tutorial in which he shares all his secrets in the art of cross examination. Well not all of them. Just a few. But this is 'must see TV.' No joke."

Attorney Maxwell Goss, of Fishman Stewart, will open the Symposium with a lecture titled, "Protecting Intellectual Property, from 5-5:20 p.m. Rossman and Paul Mersino of Butzel will team for a discussion on "The Post-Pandemic Law Firm," scheduled from 7-7:20 p.m.

"This is the fifth year in a row my firm and I have been doing this," said Rossman, whose colleague Linda Roelans Oszust will serve as a moderator at the event. "At first, they told me not to put a number in front of it, because then we'd have to do it every year. They were right, but I did it anyway, and I'm glad, because if we don't really force ourselves to do things, it doesn't, as the Beatles say, 'keep getting better all the time.'"

The cost of attending the Symposium is \$135, and more information can be obtained by visiting, www.bizsymposium.com.

But that's where the remarkable part of the story starts. Martel seems to have turned his life around. He went to law school, found steady work, and is getting a PhD.

Newly seated Michigan Supreme Court Justice Kyra Harris Bolden hired Martel as a law clerk. His job included "reviewing cases, conducting legal research, preparing questions for oral arguments and sometimes writing first drafts of justices' opinions."

The job didn't last long. His hiring was blasted by another justice, Richard Bernstein. Bernstein and Bolden are both Democrats.

"I'm not saying (Martel) shouldn't be allowed to make a living, and I'm all about second chances. But there are certain jobs you should never be allowed to have after you shoot at a police officer, and one of them is clerking for the highest court in the state," Bernstein told The Detroit News.

Martel quickly resigned, saying he didn't want to be "a distraction."

I don't personally know Bolden, Bernstein or Martel — and probably disagree with them on many policy issues. But this was a sad way for the story to end.

Martel isn't a politician. He is someone trying to find a job, and he was thwarted because of past crimes. He already served his time in prison — from the government and legal standpoint, he paid the price for his crime.

That price should not include a lifetime ban on working. And it doesn't make

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Local Voice

JARRETT SKORUP
Mackinac Center for Public Policy

How should we punish people for their crimes?

There's no denying that Pete Martel did something bad. In 1994, he pled guilty to armed robbery and assault after robbing a store and firing a gun at police.

If he had hit or killed an officer or bystander, he probably wouldn't be out of prison today. As it is, he served 14 years.

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THE CONVERSATION

BY KIRSTEN MATOY CARLSON
Wayne State University

Trump is Facing Various Criminal Charges — Here's What We Can Learn From Legal Cases Against Nixon and Clinton



(THE CONVERSATION) — A Georgia special grand jury has finished its work investigating whether former president Donald Trump and his allies committed crimes when trying to overturn the 2020 election results.

While special grand juries cannot themselves issue indictments, they can recommend district attorneys do so. This and other recent news about

Trump's mounting legal problems has led to a number of legal experts and political observers saying that Trump could soon be indicted.

Trump, meanwhile, faces several other criminal investigations that could also result in indictments. The Department of Justice is investigating Trump for retaining government documents in violation of several federal laws.

And the House Select Committee to Investigate the January 6th Attack on the United States Capitol referred Trump to the Department of Justice in December 2022, citing multiple likely criminal violations in his role of orchestrating an attack on the Capitol. The Department of Justice's special counsel is now investigating.

Trump, who may become the first former president of the United States to be indicted by a court of law, is not the first modern president with legal problems. But the question of whether a president — sitting or former — should be charged with a crime has come up three times in the last half-century.

As a legal scholar, I understand the important ques-

tions raised about the rule of law within U.S. democracy by the possible indictment of a former president.

The rule of law means that no one is above the law. It ensures that the rules are made by and for the people. Those rules are enforced equally and adjudicated through well-established procedures. For the rule of law to prevail, any decision to indict a former president — or not to — has to be credible, independent and supported by evidence.

Being a current or former president matters

Presidential misconduct is not new. Presidents have engaged in unlawful activity. Some have even run into legal problems while in office. But their legal problems are often settled by the time they leave office and fade from the public's memory.

The perseverance of Trump's legal problems raises important new questions about how to deal with misconduct by a former president.

This matters, because federal law treats former presidents differently from sitting presidents. Former presidents do not retain all the legal advantages of being president. For example, former presidents can try to assert executive privilege to shield certain documents and information from Congress, courts and the public to protect the nation, but courts have limited their ability to do so.

The question of whether a sitting president can be indicted remains unresolved. In 2000, the Department of Justice adopted a policy against indicting a sitting president. The policy protects presidents while they are

in office so they can fulfill their constitutional duties.

But it is tradition, not law or policy, that has kept former presidents from indictment in the past 240 years.

The legal arguments against indicting a sitting president — namely that it would undermine the capacity of the executive branch to perform its constitutional functions — lose weight once a president leaves office. A former president becomes a private citizen and no longer has any duties under the Constitution.

Legal trouble for sitting presidents

A few presidents have faced legal problems while in office, including Republican Richard Nixon and Democrat Bill Clinton.

Nixon famously ran into legal trouble after his reelection campaign burglarized and bugged the Democratic National Committee's headquarters in June 1972 — and he subsequently participated in the effort to cover up the scandal.

Nixon resigned in 1974 before the House of Representatives could have potentially impeached him — or the Senate could have convicted him and removed him from office for his crimes of obstruction of justice, abuse of power and contempt of Congress.

Special Prosecutor Leon Jaworski, who was investigating the Watergate scandal, struggled with the question of whether a court can indict a sitting president.

The U.S. Constitution does not say that the president is immune from ordinary processes of the criminal law. It does, however, provide for impeachment and removal

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