

# In Conversation with Christopher Marinello

Alex Charilaou

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*Christopher A Marinello is an expert in recovering stolen, looted, and missing works of art. A lawyer for over 28 years, Marinello began his legal career as a litigator, negotiating complex title disputes between collectors, dealers, museums, and insurance companies. In 2013, he founded Art Recovery Group, a specialist practice providing due diligence, dispute resolution, and recovery services for the art market and the cultural heritage sector. Marinello has overseen the development of the ArtClaim Database, the most technologically advanced system in existence for identifying and recording issues and claims attached to works of art. Marinello has recovered over \$400 million of stolen and looted artwork, and has worked on some of the most important recoveries of Nazi-looted art.*

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**CJLPA: I thought we could start with a bit about your career. How did you start off as an art lawyer?**

**Christopher Marinello:** I started off a while ago at art school, but I wasn't particularly talented and was encouraged by others to try the law instead—with a law degree you can always go back to painting. So I went to law school and became a litigator, and worked in the courts of New York City for almost 20 years, and I developed my love for keeping my clients. I worked for artists, for galleries, collectors, museums, and whatnot. And then, in around 2013, I founded Arts Recovery International.

**CJLPA: How did you come about doing that?**

**CM:** I was working for the Art Loss Register as their General Counsel, and I started in New York and, at their request, moved to London. Then I left to start my own business. Of course, it's very hard to tell a British businessman how to run their business when you're an Italian American lawyer.

**CJLPA: You've worked on the cases of some highly famous works of art. Would it be fair to say that fame and public intrigue around some of the cases you've worked on have been impediments to objective investigation?**

**CM:** I don't think so at all. In fact, some of the high-profile cases I have handled will never be disclosed publicly. The cases that we do disclose are for a reason: either because we are trying to publicly pressure a government or a certain party to resolve the matter in some fashion, or because we are trying to put pressure on the public to tell us the whereabouts of a stolen or looted painting. As lawyers, we do what our clients ask us to do. If they want the publicity we go forward. If not we remain confidential. If clients do decide to go forward publicly, it's to apply pressure to somebody, or so the public knows that the painting is no longer subject to a title dispute, because they want to sell it or the painting has to be

sold, and they want the art market to feel comfortable that a title dispute has been resolved.

**CJLPA: Can the fame or hype around a piece affect those determining the provenance of the piece? Especially, for instance, art historians. Especially when there's a lot of money involved. We might think of the *Salvator Mundi*.**

**CM:** I try to divert attention away from that aspect of a case, and I don't allow it to happen. For example, we're currently involved in a case regarding a copy of *La Joconde*, or the *Mona Lisa*, and every single story that's come out about the case has been like, 'Is this a copy? Is it another version, an earlier version by Leonardo? Is it worth 500 million?', and I keep saying, 'Look, I don't care if it's painted on velvet, it's not about whether it's a significant earlier version of the *Mona Lisa*, it's about my client owning 25% of whatever this is and the 75% owners refusing to acknowledge that despite a written contract.' So, I won't let the press turn that around, as much as they try to create an attribution. We don't do that, create something out of thin air, and I completely state emphatically that we don't know or care what it is, but we own 25% of it! But we can't keep the press, as you said, from their salacious bits they want to chomp on.

**CJLPA: What's the role of AI and machine learning going to be in all this?**

**CM:** Well now you're getting into attribution areas which I don't feel comfortable discussing. It's just not our thing. We recover what it is, we resolve the title dispute, and we turn it over to the experts in attribution for that kind of thing.

**CJLPA: Something a little more in your ballpark: what is the state of regulation in the art market at the moment? Is there too little? Too much?**

**CM:** People want to say that the art market is the Wild West,

with no regulation, but it isn't true. There are plenty of regulations covering art transactions. The main problems are in enforcement. Getting the art market to behave and comply with the laws that are on the books has always been a problem, and getting law enforcement to enforce activities in the art world is extremely difficult. There are many challenges, especially in the middle of a pandemic. There are so many times where I've called law enforcement about a crime in the art world, and they've responded to me with, 'We're dealing with international terrorism issues, we can't deal with this, it isn't something we handle.' It's a regulated industry. Compliance and enforcement are the problem. However, those in the art market have been given an opportunity to police themselves in the last few years, where law enforcement has been backing off. They had a choice between enforcing themselves or committing crimes with reckless abandon, and they've unfortunately decided on the latter. So, there's a lack of due diligence, a lack of complying with regulations, and so now things are starting to tighten. We have new money laundering laws requiring due diligence, where it was voluntary before. Now it's coming into effect. And they're upset about it, but too bad. You had the opportunity for years, and you failed. Now you have to deal with the heavy-handed government regulations that are overly broad. Look what happened with the ivory trade. Those in the art market had decades of opportunity to sort themselves out, and they didn't. Then the government came in and imposed an overwhelming ban, and now they're all screaming about it being heavy-handed. Too bad. You had a chance, and now the government is going to screw it up.

**CJLPA: You work across the world, with different legal systems and enforcement systems. How do they compare? And what challenges does the global nature of art regulation pose for somebody like yourself?**

**CM:** Well, of course the first thing to consider is civil law jurisdictions versus common law jurisdictions. I love to deal with cases in common law systems, because the theft or looting victim has the upper hand. It's always frustrating working in civil law jurisdictions, where the alleged 'good faith' buyer has the upper hand. I've a case going on right now in Canada, which is a common law jurisdiction apart from bloody Quebec province. Of course that's where my stolen painting is! The dealer's saying he bought it under the civil law jurisdiction of Quebec province, and of course he's right, so I have to make a deal with the guy now. One of the first things we do is look at the various jurisdictions we're dealing with and sort that out. I've another case in Serbia where I have to sort out the different laws of the different countries, and obviously we have partner attorneys in different countries because we don't know the legal system of every country we operate in. What was the second part of your question?

**CJLPA: What challenges does the global nature of your work bring?**

**CM:** OK, challenges are easy. Firstly, jurisdiction issues. Statute of limitations issues change from jurisdiction to jurisdiction. We have law enforcement willing to engage in some countries, like Italy, which has a good-size cultural heritage team, as opposed to the UK, and London, which has maybe two full-time officers and one part-time officer in their art crime team. They're overwhelmed, and quick to dismiss anything that isn't going to be a major case. So, law enforcement issues, funding, enforcement problems. In many cases, we need that law enforcement backup, I need a police report, I need to let the possessor know that if they don't cooperate

there might be a criminal investigation, so there's some challenges. And then you have gangs of criminals operating internationally, which poses a problem, and I guess other issues can be sorted out, like language problems. One of the biggest hurdles we've come across is cultural differences. I find a lot of these six-figure watches lately, Patek Philippe or something, for over £100,000, which get stolen from the wrists of collectors in the UK and end up in Hong Kong or the Middle East. When I confront someone in the UAE about it, they'll be like, 'The fact I have it on my wrist doesn't mean it's mine.' I'm like, 'Well, no, "finders keepers" isn't the law!' But culturally they believe this. There was a Joshua Reynolds painting stolen from a country home in Sussex, and then it's there on the wall of the Tokyo Fuji art museum, and the Japanese are like, 'That's nice, but we bought it.' And that's just not acceptable! It was on the cover of the Sussex Times in, like, 1988 as stolen, and you bought it from a dealer without asking questions, and they're like, 'Well under Japanese law it's not stolen.' These are some of the many challenges we have.

**CJLPA: What are the specific challenges legally and culturally, especially with our unique press, in Britain?**

**CM:** Law enforcement is the biggest challenge. They're overwhelmed and underfunded, and they're told to deal with matters of terrorism, which is a reality of today's world. When I find there's a big book heist in Mayfair, and they show up in Italy, I'll find them, and the Italian police will ask for a copy of the British police report. I'll contact the UK police, and they're like, 'We've closed the case, we can't give it to you.' 'Why did you close the case? The books have shown up in Italy.' 'Once they left the UK it's no longer a UK matter, so we're closing the file.' It's absurd, all I need is a copy of the report so I can get a result to the victim. It's just that 'get it off my desk' mentality that's so frustrating. It's not the fault of the extremely hardworking and talented individual British officers. It's because they're told to focus on other things, and they're funded for terrorism issues and the reality of life in London, and they couldn't care less about manuscripts that have shown up in Italy. Eventually I got them back, but boy, not without pulling some strings and some teeth. That's one of the challenges. One of the pleasures, believe it or not, is working with the press. They love art stories, and we are able to work with the press, they've assisted us. I was working pro bono for a church in the city, and BBC was following the case closely. I had to go to the Netherlands to meet the possessor of this stolen sculpture, and I was like, 'I've got the BBC on the phone, do you want to speak to them about this?', and he's like, 'Wait, no, I don't want any press on this!' He had to strike a deal with me, and I was able to return the piece unconditionally to the church. The press has always been very helpful to us.

**CJLPA: In your analysis, has the marketisation of artworks, especially those of cultural or historical value, gone too far?**

**CM:** There are people who say cultural property should never be in private hands, it should only be in museums. That's one extreme. On the other hand, people say it should be a wild free-for-all where everything has its price and we should empty out our museums, spend the money on education. Both extremes are ridiculous. Not every piece is a museum piece. We're now seeing issues around the world of museums deaccessioning works of art, and people are screaming and yelling. But honestly, if a painting spends its entire life in the basement of a museum, I support the museum's right to deaccession it, either to bring in new works of art for display, or, I don't know, to fix their roof. There must be some happy medium. I'm sorry, but not everything belongs in a museum.

**CJLPA: Tell me about the processes behind investigating Nazi-looted art.**

**CM:** I have researchers that I work with who find works of art—in museums, or private collections, or auction houses—that had been looted by the Nazis. The first step is to prepare the documentation, then put it into a claim letter, then write to the museum or to the auction house. We're very transparent. We produce all our documentation, then we request a sit-down, according to the Washington Principles, and say, 'We want to resolve this', show them our proof, ask them for the provenance of their piece, and discuss it. These cases take years. It took me four years to pull something out of the Gurlitt hoard, and a few years for a restitution for something from Norway. I've been battling the German authorities for four years now over a Nazi-looted piece in a private collection in Germany. I actually had to file a criminal case against the art dealer who tried to extort my client into paying three and a half million Swiss francs before he told them where it was. I'm not, as usual, getting much cooperation out of Germany, and even Austria isn't particularly cooperative. It's shocking that 75, 80 years after the war, we're dealing with Nazi-looted art issues. I get letters from lawyers all over the world like, 'Oh, why are we still talking about Nazi-looted art? Shouldn't there be some sort of deadline where we stop talking about this?' No, there shouldn't be, until you actually deal with it! If we'd begun dealing with it straight after the war, maybe you could begin to say, 'Enough is enough'. When we're still fighting the Germans and the Austrians and museums and collectors and people who don't want to cooperate or be transparent, then we're not dealing with the situation. They have no right to say, 'Enough is enough', when they have never dealt with the situation or complied with international norms with respect to Nazi-looted art.

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