

11-1197-cv

United States Court of Appeals
FOR THE SECOND CIRCUIT

PATRICK CARIOU,

Plaintiff-Appellee,

v.

RICHARD PRINCE,
GAGOSIAN GALLERY, INC.,
and LAWRENCE GAGOSIAN,

Defendant-Appellants.

On Appeal from the United States District Court
for the Southern District of New York

**DECLARATION OF JONATHAN D. SCHILLER IN SUPPORT OF
DEFENDANTS-APPELLANTS MOTION FOR RELIEF TO FILE
HARD COPY EXHIBITS TO
THE JOINT APPENDIX**

Hollis Gonerka Bart
Chaya Weinberg-Brodt
Dara G. Hammerman
Azmina N. Jasani
WITHERS BERGMAN LLP
430 Park Avenue, 10th Floor
New York, NY 10022
(212) 848-9800

Jonathan D. Schiller
George F. Carpinello
Joshua I. Schiller
BOIES, SCHILLER & FLEXNER LLP
575 Lexington Avenue, 7th Floor
New York, NY 10022
(212) 446-2388

Attorneys for Appellants
Gagosian Gallery, Inc. and
Lawrence Gagosian

Attorneys for Appellant
Richard Prince

I, JONATHAN D. SCHILLER declare:

1. I am an attorney from the law firm of BOIES, SCHILLER AND FLEXNER, LLP, and I make this Declaration in Support of Defendants-Appellants Motion for a Relief to File Hard Copy Exhibits to the Joint Appendix.

2. Yesterday, an electronic copy of the Joint Appendix was filed with this Court. However, there are two exhibits that were given to the district court with permission by hand in their original version and not reproduced electronically.

3. These exhibits are (1) Exhibit M to Bart Affidavit - Richard Prince Book *Canal Zone* also referred to as “The Catalogue” (A-528) and (2) Exhibit EE to Bart Affidavit -Photocopy of Patrick Cariou’s Book entitled *Yes Rasta* (A-743).

4. These books are the *Yes Rasta* photography book by Patrick Cariou and the *Canal Zone* exhibition catalogue published by Gagosian Gallery, which includes images of the works of art that are the subject of this appeal. Because both are large format, high quality books containing multiple images, neither is fit for electronic reproduction in accordance with the ECF rules.

5. Therefore, we request that this Court grant relief to allow 3 copies of each book to be filed by hand as Exhibits 1 and 2 to the Joint Appendix.

6. Defendants-Appellants seek this relief with the support of Plaintiff-Appellees who do not oppose submission of hard copies of the books and have generously provided three copies of the *Yes Rasta* book for this Court.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on this 27th day of October, 2011.

 /s/ Jonathan D. Schiller

Jonathan D. Schiller
BOIES, SCHILLER & FLEXNER LLP
575 Lexington Avenue, 7th Floor
New York, NY 10022
(212) 446-2388