

SIDLEY AUSTIN BROWN & WOOD LLP

NEW YORK


Eric Doeringer

November 28, 2005

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Please sign and return a copy of this letter to me by **December 5, 2005**, to warrant that you have agreed to the terms set forth herein and that you have, and will not at any time in the future, distribute, prepare derivative works or reproduce copies of Mr. Currin's works.

Very truly yours,



Peter J. Toren

cc: **Kara Vander Veg**

Agreed to:

Eric Doeringer

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

PATRICK CARIOU, :

Plaintiff, :

-against- :

RICHARD PRINCE, GAGOSIAN GALLERY, :

INC., LAWRENCE GAGOSIAN and RIZZOLI :

INTERNATIONAL PUBLICATIONS, INC., :

Defendants. :

-----X

08 Civ. 11327 (DAB)

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT**

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PRELIMINARY STATEMENT

In this clear-cut case of copyright infringement, defendants seek to abrogate the outer limits of the fair use defense, contending that a visual artist may randomly appropriate significant portions of another artist's copyrighted photographs – without permission and without giving credit to the original artist – simply because he likes those photographs and wants to use them in new works of art which admittedly do not in any way comment on or relate to the original photographs. Plagiarism of this sort, even if it falls within an “artistic tradition” of taking and “re-contextualizing” the works of others, is not fair use. Permitting unlimited appropriation of copyrighted images without any requirement that the images be commented upon or used as the subject of the appropriator's work would remove any practicable boundary to the fair use defense and obliterate the protection afforded by the Copyright Act in the visual arts.

Pursuant to leave of the Court, granted on March 19, 2010, plaintiff, who has settled with the other originally-named defendant, Rizzoli International Publications, Inc. (*see* fn. 3, *infra*), respectfully submits this memorandum of law in support of his motion for summary judgment on the issue of the liability of defendants Richard Prince, Gagosian Gallery, Inc. and Lawrence Gagosian for copyright infringement. Based on the undisputed material facts, defendants' wrongful conduct is not immunized by the fair use doctrine. Factual support for this motion is contained in the accompanying declarations of Daniel J. Brooks, dated May 7, 2010 (“BDec.”) and Eric Doeringer, dated May 6, 2010 (“DDec.”) and the exhibits thereto.

STATEMENT OF FACTS

During a six-year period, plaintiff Patrick Cariou, a professional photographer, spent roughly half his time living among and working with the Rastafarian people in Jamaica, earning their trust and taking photographs of these reclusive people in their tropical environment. BDec. Ex. D at 42-44. Over 100 of these black-and-white photographs (the “Photographs”) were published in 2000 in a book entitled *Yes Rasta*, which contained a copyright notice, and was

registered, as a compilation, with the U. S. Copyright Office on November 5, 2001, with Cariou listed as the sole copyright owner and author. BDec. Exs. L, L-1, L-2, K.

Cariou, a French citizen, is the author of two other books of photography (*Surfers* and *Trench Town Love*) and of commercial photography that has appeared widely in fashion and travel magazines (BDec. Ex. D at 101, 280-82). He made important creative decisions in taking and developing the Photographs in *Yes Rasta*: choosing the camera, lenses, film, depth of field, background and setting, angle, lighting, time of day, subjects and their poses, and exposures; waiting for meteorological events such as approaching tropical storms to unfold; and supervising the processing of the film, with a specific chemical, to achieve the desired look (involving the challenge of photographing dark images in the shade without sacrificing detail). *Id.* at 51-64, 133-34, 137-38, 143-44, 152, 169. Cariou's purpose was not merely to create the "ultimate" photographic book about Rastas (*id.* at 68), capturing the Rastafarians in their tropical habitat, but to do so in an aesthetic way, creating "beautiful" "portrait[s]," "picture[s]," and "landscapes," and "visually compelling" and "visually appealing" photographs (*id.* at 51, 84, 112, 132, 134, 151, 171, 178). Almost all the Photographs were posed, often for considerable periods of time, ranging from fifteen minutes to hours (*id.* at 46, 56, 117-18, 132, 134, 137, 142, 152, 155-56, 165), and locations were scouted, sometimes for days (*id.* at 56). When asked by defense counsel whether his Photographs were "staged," Cariou only identified three (out of 29) that were not "staged," one of which, however, while not "staged," was a landscape which Cariou shot only after waiting for a storm to come in. *Id.* at 109, 113-21, 151-52; BDec. ¶ 13.

Defendant Richard Prince is known as an appropriation artist (BDec. Ex. C ¶ 18; Ex. G at 17-18; Ex. H at 91-92), a practice about which he has written (BDec. Ex. Q), and which he has described as "steal[ing]" (BDec. Ex. R at 2; Ex. E at 34-35, 48-49.) He testified that he "find[s] it more satisfying to appropriate than to create [his] own work." (BDec. Ex. E at 44; Ex.

Q.) Although Prince began his career by re-photographing advertisements (BDec. Ex. E at 16, 75-76), he does not have a different standard or artistic practice for appropriating images with a disclosed author as opposed to advertisements; as he testified: “No, not really. It’s just a question of whether I like the image.” (*Id.* at 100).

By “pure chance” (*id.* at 264), Prince found a copy of *Yes Rasta* in a bookstore in St. Barth’s. *Id.* at 151. Subsequently, in June 2008, Prince bought three additional copies of *Yes Rasta* directly from the book’s publisher. *Id.* at 237, 240-41; BDec. Ex. S. He claimed that he did not notice that *Yes Rasta* had a copyright notice (BDec. Ex. L-2) identifying Cariou as the copyright owner of the Photographs. BDec. Ex. E at 240. He testified that he “liked” Cariou’s Photographs (*id.* at 161), and confirmed his statement in an interview with respect to *Yes Rasta*: “I loved the look, and I loved the dreads.” (BDec. Ex. T at C00075; Ex. E at 261-62).

In late June 2008, Prince decided to create a series of paintings (the “Paintings”) by cutting over twenty Photographs out of *Yes Rasta* and having them scanned, enlarged and printed with an ink jet printer by an outside commercial laboratory. BDec. Ex. I at 20-22, 27; Ex. E at 38-40, 168-70, 218; Ex. U.¹ Prince incorporated the enlarged Photographs into the Paintings, sometimes by squeegeeing them onto the canvas with paint. BDec. Ex. E at 273-76. Fifteen of the Paintings were exhibited from November 8, to December 20, 2008 at Gagosian Gallery, in a show entitled *Canal Zone*, named after Prince’s place of birth, which he barely remembered, having lived there only until the age of six. BDec. Ex. E at 8-9, 292, 295, 302-09; Ex. X, Ex. Y; Ex. G at 22-24.

A catalogue of the exhibition (the “Canal Zone Catalogue”) was published by Gagosian Gallery, picturing 22 Paintings (including additional Paintings not exhibited during the

¹ Previously, Prince created a collage, titled *Canal Zone 2007*, by affixing 35 pages torn out of his first copy of *Yes Rasta* to a plywood board, which was exhibited in December 2007 in St. Barth’s. BDec. Ex. E at 164, 175-77, 179-80, 182-84; Exs. V, V-1. This work was not referred to in the amended complaint because it only became known later, when an article about this lawsuit in *The Art Newspaper* reproduced a portion of the collage. BDec. Ex. W; Ex. D at 30-34, 145.

Canal Zone show, but containing images of Cariou's Photographs). BDec. Ex. E at 302-04; Exs. M, M-1, M-3, N. The Canal Zone Catalogue, which also contained exact replicas of Cariou Photographs mounted on canvases in Prince's studio (BDec. Ex. Z) and blown-up details from the Paintings emphasizing Cariou's Photographs (BDec. Ex. AA), was copyrighted in the names of Gagorian Gallery and Prince, with a warning: "All rights reserved. No part of this publication may be used or reproduced in any manner whatsoever without prior written permission from the copyright holders." BDec. Ex. M-4. In addition to the 22 Paintings in the Canal Zone Catalogue, Prince produced seven or eight other Paintings in 2008 appropriating images from Cariou's Photographs. BDec. Ex. E at 304-09; Exs. O, P, X.

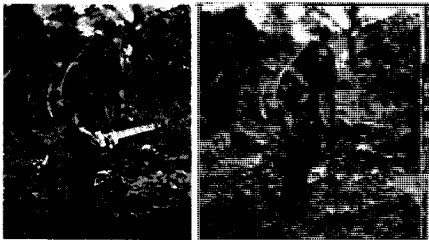
Of these approximately 30 Paintings, two (*Graduation* and *Meditation*) contained a reproduction of a Cariou Photograph of a single Rastafarian man, clad in shorts and boots and with long dreadlocks, set against a tropical background. Both Paintings reproduced the entire Rastafarian man with ovals painted over the man's eyes, nose and mouth, and a photograph of a guitar, appropriated by Prince from *Guitar Magazine*, inserted into the man's hands. BDec. Ex. N; Ex. U, C00018, 00023; Ex. E at 164, 168. An unaltered image of the same Rastafarian man was reproduced four times in the Prince Painting *Tales of Brave Ulysses*, juxtaposed with images of nude females, taken, according to Prince, from books about "men's magazines." BDec. Ex. N; Ex. U, C00032; Ex. E at 171-72. The same Rastafarian man was replicated multiple times, twice without alteration or guitar, in the Painting *Escape Goat* (BDec. Ex. O, PR00030), and, with facial alterations and/or a guitar, in nine other Prince Paintings (BDec. Ex. U, C00019-20, 00024-25, 00031, 00034, 00036-38); BDec. ¶ 28 (explaining how Cariou created BDec. Ex. U, juxtaposing the Paintings with the Photographs that were appropriated in each Painting.)

Two other Paintings, *Back to the Garden* and *Charlie Company*, appropriated an entire Cariou Photograph of a Rastafarian man on a donkey, juxtaposed with two female nude

photographs. *Back to the Garden* contains two images of this man on the donkey, one with paint dollops on the eyes, nose and mouth and holding a guitar, the other unaltered, albeit apparently torn, with a portion of the tropical background. BDec. Ex. N; Ex. U, C00021-22.

Another Painting, *Djuna Barnes, Natalie Barney, Renée Vivien, and Romaine Brooks Take Over the Guanahani*, appropriated an entire Cariou landscape and superimposed photographs of four female nudes. BDec. Ex. N; Ex. U, C00030. Two Paintings, *Canal Zone 2008* and *The Ocean Club*, appropriated cut-out rectangles of Cariou landscapes, superimposing the Rasta with the long dreadlocks on the first and the same Rasta with two images of a nude female on the second. BDec. Ex. N; Ex. U, C00024, 00025. The other Paintings, for the most part, consisted of groupings of Rastas and nude females, some with guitars. BDec. Exs. N, U.

Although the blatant, wholesale copying is most clearly visible by comparing the *Yes Rasta* book and Canal Zone Catalogue (submitted with this motion (BDec. Exs. L, M)), and in the larger attachments to the moving papers (e.g., BDec. Exs. N, U, AA, BB, CC), some reduced-size examples of Prince's appropriation of Cariou's Photographs are shown below:



Richard Prince, *Graduation*, 2008
BDec. Ex. U, C00018

Patrick Cariou, *Yes Rasta!*, 2000
BDec. Ex. U, C00018



Richard Prince, *Back to the Garden*, 2008
BDec. Ex. U, C00021

Patrick Cariou, *Yes Rasta!*, 2000
BDec. Ex. U, C00021



Richard Prince, *Djuna Barnes... Take over the Guanahani*, 2008 BDec. Ex. U, C00030



Patrick Cariou, *Yes Rasta!*, 2000 BDec. Ex. U, C00030



Richard Prince, *Tales of Brave Ulysses*, 2008 BDec. Ex. U, C00032



Patrick Cariou, *Yes Rasta!*, 2000 BDec. Ex. U, C00032

In his deposition, Prince confirmed his statement, in an interview, that the Paintings were “very quickly done – they’re not really thought about” BDec. Ex. T, C00076; Ex. E at 273. Prince explained that he liked to paint quickly and that these Paintings “were done [sic] day, half a day, some of them took two hours.” BDec. Ex. E at 274. In the same interview, Prince had stated: “[t]he Rastas came really fast. And they’re going to be over really fast, too” (BDec. Ex. T, C00077). He testified that the reason he made that statement was: “I was in the middle of other bodies of work that I needed to pay attention to.” BDec. Ex. E at 281.

Importantly, Prince testified that the *Yes Rasta* Photographs, which he admitted using in his *Canal Zone* Paintings, were not the subject of those Paintings. BDec. Ex. E at 30. Equally significantly, and fatally to the defendants’ fair use defense, he testified that, in his Paintings, he was not commenting on Cariou’s Photographs or on Cariou’s technique or methodology in taking those Photographs. *Id.* at 281-82.

Prince’s answer to the amended complaint – which, prior to his deposition, he had never seen or discussed with anyone (*id.* at 23-24) – contended that: “Prince’s paintings are transformative in nature, and include new meaning, new artistic expression and a new message

by utilizing portions of the photographs, together with other images and media, to create new and unique work which comments upon certain aspects of culture.” BDec. Ex. B ¶ 47. Prince, however, testified: “I don’t really have a message” (BDec. Ex. E at 45-46), later adding: “The message is to make great art that makes people feel good.” *Id.* at 267. He also claimed that he had a “different message and medium” than Cariou because “it’s a completely different look, and it’s a completely different application, and it’s a new way of collaging.” *Id.* at 331.

According to Prince, the Paintings had a rock-and-roll theme (*id.* at 279-80), with the groupings of Rastafarians and nude women representing musical bands. *Id.* at 251-52, 272-73. Prince testified that the “primary subject” of the Paintings was the guitar, which he described as his own “brilliant, brilliant contribution” to the Paintings. *Id.* at 279. Prince testified that the message or meaning of *Back to the Garden* was: “I’m trying to make a kind of fantastic, absolutely hip, up to date, contemporary take on the music scene.” *Id.* at 338-39. Noting that one of the images of the Rastafarian on the donkey had a guitar (Prince’s “contribution” to the Painting), Prince testified that his “message” was “hey, this guy is playing the guitar.” *Id.* at 340.

Regarding *Djuna Barnes, et al. Take Over the Guanahani*, Prince admitted that he took an entire Cariou landscape as the backdrop for that Painting (*id.* at 356), and testified that, in superimposing the four nude females over that landscape, he was not commenting on any aspects of culture (in fact, his work did not generally make such comments (*id.* at 354, 364)), or trying to create anything with a new meaning or a new message (*id.* at 360), but was trying to create something new and unique: “A balls-out, great, unbelievably looking great painting that had to do with a kind of rock-and-roll painting on the radical side, and on a conservative side something to do with Cézanne’s bathers.” *Id.* at 361. Regarding his Painting *Tales of Brave Ulysses*, Prince testified that it derived its title from a song by the band Cream, and that the unaltered image of the Rasta with long dreadlocks was repeated four times in order to evoke the

rhythm of that song. *Id.* at 364.

As a “subtext” (*id.* at 30) to the musical theme, Prince cited a “pitch” he had written for a Hollywood movie about a wealthy family that arrived in St. Barth’s for a vacation only to discover that a nuclear holocaust had taken place while they were traveling there, resulting in the destruction of most of the world and post-apocalyptic strife on the island, which became divided among various “tribes,” including the Rastas and the nude women. *Id.* at 206, 341, 365; BDec. Exs. DD, EE, T (C00075-76), FF. James Frey, the notorious author of the fake memoir, *A Million Little Pieces* (BDec. Ex. F at 112; Ex. E at 202-03), was hired to turn the pitch into an essay, which was inserted in the Canal Zone Catalogue. BDec. Ex. E at 201-02, 230. Prince testified, however, “I don’t really think that anything that James ultimately wrote for the essay for the Canal Zone publication had anything to do with the paintings really.” BDec. Ex. E at 235.

When asked whether he considered alternatives to conscripting Cariou’s Rastas into his musical bands and/or post-apocalyptic vision, Prince admitted that he could have flown to Jamaica and taken his own photos (“I suppose I could have gone”), but “my way of taking a portrait is to take something that’s already been taken.” BDec. Ex. E at 283. He also conceded it was “possible” that he could instead have used royalty-free stock photos of Rastas, available on the iStockphoto.com website. *Id.* at 286, 290-92.

Gagosian Gallery and its President and controlling shareholder, Lawrence Gagosian (BDec. Ex. F at 16-17), commercially exploited Cariou’s Photographs in order to sell Prince’s Paintings. In addition to print ads in *The New York Times* and *The Financial Times* (BDec. Ex. H at 47-50), Gagosian approved ads for the *Canal Zone* show in five other publications (*id.* at 44, 45, 48-49; BDec. Ex. F at 36), featuring images of Cariou’s Rastafarian with long dreadlocks (four of these from the Painting *Graduation*). BDec. Ex. GG; Ex. H at 42-43, 45-46. Gagosian Gallery publicized the *Canal Zone* exhibition on its website and in a press release depicting *Back*

to the Garden, with Cariou's Rasta on a donkey. BDec. Ex. F at 49; Ex. FF, C00008-9; Ex. G at 18-19. Before its opening, the exhibition was also publicized in an interview of Prince in *Interview Magazine*, the first page of which reproduced five of the Paintings (containing Photographs appropriated from Cariou), which were requested by the interviewer from Gagosian Gallery. BDec. Ex. T, C00065; Ex. HH, GGP001421.² According to one Gagosian Gallery employee, Frey's name was to appear on the title page of the Canal Zone Catalogue so it would come up "if you Google James Frey[,] thus generating more publicity. BDec. Ex. M-2; Ex. II.

An announcement card with an image of the Painting *Graduation* (Cariou's Rasta with long dreadlocks) was mailed to 7,500 Gagosian Gallery clients and museums in order to promote the show. BDec. Ex. JJ; Ex. F at 35; Ex. H at 29-33. Leftover announcement cards, instead of being recycled as planned, were sold to a poster company. BDec. Ex. H at 55-59; Ex. KK. A dinner was held for the opening of the *Canal Zone* show on November 8, 2008. BDec. Ex. LL; Ex. H at 26-28. Everyone on the invitation list was approved by Gagosian, who was "very strict" and "super intense" about giving his approval. BDec. Ex. F at 51-55; Ex. NN, GGP003313, 3375, 3498. A Gagosian Gallery employee wrote: "Larry would like the opening and dinner to be 'kick ass' so please invite celebrities/moma/gugg/whitney curators and other clients who will BUY his work." BDec. Ex. OO. Another of his employees wrote: "Before Larry approves this list he would like to know if you have sold any art to these people. If so, he would like to see proof." BDec. Ex. PP. Gagosian testified that the invitation list (BDec. Ex. QQ) included celebrities (*e.g.*, Paris Hilton, Leonardo DiCaprio, Robert De Niro, Mick Jagger,

² Ironically, given that Prince testified that his titles were another "subtext" of the Paintings (BDec. Ex. E at 249) and an important part of the "transformation" of Cariou's images and the "recontextualizing" of the Photographs (*id.* at 248-49), Prince could not identify two of these five Paintings by title. *Id.* at 244-48. Nor, according to one of his assistants, could Prince, in response to a request from Gagosian Gallery, remember the titles of at least two other Paintings. BDec. Ex. MM at GGP004072. As Prince's assistant stated: "[P]lease check the title on back of painting – Richard couldn't remember which was which." *Id.*

Renée Zellweger) to generate buzz for the show (BDec. Ex. F at 60); fashion models (*e.g.*, Gisele Bündchen, Elle Macpherson, Kate Moss, Christy Turlington) because they “look good at a dinner table” (*id.* at 74); and billionaire art collectors (*e.g.*, Leon Black, Eli Broad, Steven A. Cohen, the owner of the SAC hedge fund and of Damion Hirst’s formaldehyde shark, Henry Kravis, Ronald Perelman and Philip Niarchos) who might buy Prince’s art. *Id.* at 62, 67-70, 75-76.

The show, which continued on despite defendants’ receipt of a cease and desist letter from Cariou on December 11, 2008 (BDec. Ex. RR; Ex. B ¶¶ 24-25; Ex. C ¶¶ 24-25), was a commercial success.³ Eight of the Paintings (which Gagosian was involved in pricing (BDec. Ex. F at 116)) were sold for a cash total of \$10,480,000, 60% of which went to Prince and 40% of which went to Gagosian Gallery. BDec. Ex. P ¶ 2 & Ex. A; Ex. F at 48. Four other Paintings were exchanged for a Larry Rivers painting, *Dying and Dead Veteran*, valued by Gagosian at \$3 or \$4 million (BDec. Ex. P ¶ 3; Ex. F at 136-37), and three Paintings were exchanged for a Richard Serra sculpture, *Bellamy*, also valued by Gagosian at \$3 or \$4 million (BDec. Ex. P ¶ 3; Ex. F at 149-50). Gagosian Gallery also sold Canal Zone Catalogues for a total of \$6,784. BDec. Ex. P ¶ 4. The unsold Paintings were put in storage, and are not publicly viewable. BDec. Ex. F at 124, 126-27; Ex. E at 309-10.

Although the Canal Zone Catalogue is copyrighted in his name (BDec. Ex. M-4), Prince presents himself as a fair use absolutist, claiming that anyone should be allowed to appropriate anyone else’s art and that he would not mind if someone else appropriated his art. BDec. Ex. E at 118-21. Gagosian Gallery does not share this philosophy. Accordingly, when Eric Doeringer, a visual artist, appropriated images from John Currin, an artist represented by

³ The cease and desist letter was sent after a friend alerted Cariou to a newspaper ad for the show and Cariou confirmed the information by viewing the Gagosian Gallery website. BDec. Ex. D at 25-26. The letter was also sent to Rizzoli International Publications, Inc., identified as the distributor of the Canal Zone Catalogue. BDec. Ex. M-4. Rizzoli never in fact distributed the book and, after naming it as a defendant, Cariou settled with Rizzoli, dismissing his claims in a stipulation of dismissal, “so ordered” on February 5, 2010.

Gagosian Gallery, and “transformed” and “recontextualized” those images by scanning Currin’s paintings, printing the images on an ink jet printer, cutting out the images and collaging them on a canvas, in order to create “a new artistic expression, with a different feeling and message,” “in a different medium,” he received a cease and desist letter in 2005, from Sidley Austin, which represented Gagosian Gallery, which in turn represented Currin. DDec. ¶¶ 2-5 & Ex. A. After his request to use the works of art for educational, non-commercial purposes was rejected, Doeringer complied, ceasing to display, exhibit or sell his paintings. *Id.* ¶¶ 6-8 & Exs. B, C.

The *Canal Zone* exhibition impaired Cariou’s plans to market his *Yes Rasta* work. Although Cariou had sold a limited number of prints of his Rasta Photographs prior to 2008, that was through his own choice, as he had been concentrating for eight years on completing the photography for a fourth book of portraits, about Gypsies. BDec. Ex. D at 93-94, 101, 286. It had, however, always been his intent to make eight artist’s prints of each of his Rasta Photographs and to sell them. *Id.* at 93-94. Although Cariou had not yet found a publisher for his Gypsies book, “the mock-up and all the pictures [were] done,” and he was ready to “go on to something else,” specifically including making prints of each of his Rasta Photographs (*id.* at 93-94, 98, 227) and marketing them. *Id.* at 285-86.

Significantly, on August 28, 2008 (months before the *Canal Zone* show), Cariou was approached by Christiane Celle, the owner of the *Clic* art galleries, who did not know Cariou, but was familiar with his work, and wanted to represent him and have an exhibition of his Rasta Photographs for the opening of a new gallery in Soho, dedicated to photography. BDec. Ex. SS; Ex. D at 94-97; Ex. J at 17-19, 33-34, 42, 44, 53-58, 60-61, 155. Cariou agreed and met with Celle in order to discuss which of the *Yes Rasta* Photographs to include in the exhibition. BDec. Ex. D at 227; Ex. J at 39-40, 42-44. Celle wanted to exhibit 30 or 40 Photographs, with multiple prints of each Photograph to be sold during the show and kept in

inventory after the show, for future sale, at prices ranging from \$3,000 to \$20,000, depending on the size of the print. BDec. Ex. J at 40-42, 46, 66-68, 127-28, 153-55. Celle also planned to have *Yes Rasta* reprinted for a book signing by Cariou during the show (*id.* at 87-88, 155-56) and to introduce Cariou to clients of hers (decorators and entertainment figures), who might have an interest in the Photographs. *Id.* at 45, 68-69, 130-31, 158-59. When, however, she found out in November 2008 about Prince's *Canal Zone* show at the Gagosian Gallery in Chelsea (*id.* at 113-14), she cancelled Cariou's show because she did not want to seem to be capitalizing on Prince's success and notoriety (*id.* at 89, 105-06; BDec. Ex. D at 98-100) and did not want to exhibit work which had been "done already" at a famous nearby art gallery (BDec. Ex. J at 89, 91, 105). Nor would she commit to doing the show in the future. BDec. Ex. D at 100; Ex. J at 106-07. Instead of Cariou's show, she opened her new gallery with a show of similar ethnographic photography from a remote area in Kenya, which did very well commercially (selling 30 prints). BDec. Ex. J at 22-23, 49, 123-27, 140, 159-60, 162.

ARGUMENT

POINT I

DEFENDANTS' APPROPRIATION AND COMMERCIAL EXPLOITATION OF CARIOU'S PHOTOGRAPHS WAS NOT FAIR USE

A. The Applicable Legal Standard

The copyright laws "motivate the creative activity of authors and inventors" by granting them, for a limited period of time, a monopoly over their creations, "thus reward[ing] the individual author in order to benefit the public." *Harper & Row, Publishers, Inc. v. Nation Enters.*, 471 U.S. 539, 546 (1985) (citation omitted). Because, however, literature, science and art inevitably borrow "much which was well known and used before" (*Campbell v. Acuff-Rose Music, Inc.*, 510 U.S. 569, 575 (1994) (citation omitted)), the fair use doctrine avoids "rigid application of the copyright statute when, on occasion, it would stifle the very creativity which

the law is designed to foster.” *Campbell*, 510 U.S. at 577.

Fair use developed as judge-made law until codified as § 107 of the 1976 Copyright Act. *Campbell*, 510 U.S. at 576. In its preamble, §107 provides for the fair use of copyrighted work, “for purposes such as criticism, comment, news reporting, teaching . . . , scholarship, or research. . . .” Section 107 lists four factors to be considered in making a fair use determination: “(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes; (2) the nature of the copyrighted work; (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (4) the effect of the use upon the potential market for or value of the copyrighted work.” 17 U.S.C. § 107. These four statutory factors are not to “be treated in isolation, one from another. All are to be explored, and the results weighed together, in light of the purposes of copyright.” *Campbell*, 510 U.S. at 578.

Although fair use analysis is necessarily fact-intensive, involving “a mixed question of law and fact,” courts have “resolved fair use determinations at the summary judgment stage’ where, as here, there are no genuine issues of material fact.” *Castle Rock Entm’t, Inc. v. Carol Publ’g Group, Inc.*, 150 F.3d 132, 137 (2d Cir. 1998); see *Wright v. Warner Books, Inc.*, 953 F.2d 731, 735 (2d Cir. 1991) (“[T]he mere fact that a determination of the fair use question requires an examination of the specific facts of each case does not necessarily mean that in each case involving fair use there are factual issues to be tried.”) (citation omitted).

B. First Fair Use Factor: Defendants’ Use of Cariou’s Photographs Was Not “Transformative” and Was of a Highly Commercial Nature

In his seminal article on fair use, Judge Leval wrote that the first factor “raises the question of justification[.]” the answer to which “turns primarily on whether, and to what extent, the challenged use is transformative.” Pierre N. Leval, *Toward A Fair Use Standard*, 103 HARV. L. REV. 1105, 1111 (1990). In *Campbell*, 510 U.S. at 579, the Supreme Court adopted Judge

Leval's terminology, as well as Justice Story's formulation in *Folsom v. Marsh*, 9 F. Cas. 342, 345 (C.C.D. Mass. 1841), and found the "central purpose" of the first factor to be "in Justice Story's words, whether the new work merely 'supersede[s] the objects' of the original creation [quoting *Folsom v. Marsh*] . . . or instead adds something new, with a further purpose or different character, altering the first with new expression, meaning, or message; it asks, in other words, whether and to what extent the new work is 'transformative.' [quoting Leval, at 1111]."

To be "transformative," it is not enough that the second work merely "transform" the copyrighted work. This is so because one of the "exclusive rights" of a copyright owner is the right to "prepare derivative works based upon the copyrighted work" (17 U.S.C. § 106(2)) and a "derivative work," in turn, includes any "form in which a work may be recast, transformed, or adapted." *Id.* § 101. Clarifying this "potential source of confusion," the Second Circuit has stressed that, just because a work "transform[s]" an original work, thus making it a "derivative work" under 17 U.S.C. § 101, does not make the work "transformative" in the sense of the first fair use factor. *Castle Rock*, 150 F.3d at 143. A contrary interpretation would undermine a copyright owner's exclusive right to prepare derivative works based upon his own work.

The inquiry into what uses are transformative "may be guided by the examples given in the preamble to § 107 . . ." *Campbell*, 510 U.S. at 578-79. The illustrative categories listed in the preamble "should not be ignored," and where the second work's use of the copyrighted work "is not remotely similar to any of the listed categories [*i.e.*, criticism, comment, news reporting, teaching, scholarship, or research]," it is likely that, far from having a transformative purpose, the second work has the very same purpose as the copyrighted work. *Ringgold v. Black Entm't Television, Inc.*, 126 F.3d 70, 78-79 (2d Cir. 1997) (infringing work not fitting within preamble's illustrative categories was not transformative; "defendants have used Ringgold's work for precisely a central purpose for which it was created - - to be decorative.").

Similarly, Prince's Paintings shared a common purpose with Cariou's Photographs. Prince admitted that he was not criticizing or commenting upon Cariou's work (let alone engaging in news reporting, teaching, scholarship, research or anything remotely similar), and testified that his "message" was "to make great art that makes people feel good." BDec. Ex. E at 267. Cariou also wanted to create great art: "beautiful" portraits, pictures and landscapes, and "visually compelling" and "visually appealing" photographs. BDec. Ex. D at 51, 84, 112, 132, 134, 151, 171, 178. By replicating Cariou's Photographs for the same aesthetic purpose, Prince was, in Justice Story's words, "superseding the objects" of Cariou's work, as evidenced by Celle's cancellation of Cariou's show due in part to her belief that it had been "done already" in the *Canal Zone* show. BDec. Ex. J at 89.

Even assuming, however, that Prince's post-apocalyptic fantasies of rock-and-roll bands squeegeed with paint onto canvases (BDec. Ex. E at 273-76) had a different purpose or character than Cariou's portraits depicting Rastafarians in their environment, that difference alone would not make Prince's work transformative. *See Infinity Broad. Corp. v. Kirkwood*, 150 F.3d 104, 108 (2d Cir. 1998) ("difference in purpose is not quite the same thing as transformation, and *Campbell* instructs that transformativeness is the critical inquiry under this factor.") Even with a work having a parodic purpose – which "needs to mimic an original to make its point, and so has some claim to use the creation of its victim's . . . imagination" (*Campbell*, 510 U.S. at 580-81) – if "the commentary has no critical bearing on the substance or style of the original composition, which the alleged infringer merely uses to get attention or to avoid the drudgery in working up something fresh, the claim to fairness in borrowing from another's work diminishes accordingly (if it does not vanish), and other factors, like the extent of its commerciality, loom larger." *Id.* at 580.

This requirement, that, in order to be transformative, the second work fit within a

recognized justification, such as comment, criticism or research, pervades the case law. *See, e.g., Gaylord v. United States*, 595 F.3d 1364, 1373 (Fed. Cir. 2010) (postage stamp which altered the appearance of the Korean War Veterans Memorial by adding snow and muting the color was not transformative because it “did not use [the Memorial] as part of a commentary or criticism”); *Blanch v. Koons*, 467 F.3d 244, 247-48, 255 (2d Cir. 2006) (artist who “intended to ‘comment on the ways in which some of our most basic appetites . . . are mediated by popular images[.]’” and took a portion of a photo in a glossy fashion magazine in order to “target the genre of which [the photo] was typical,” and to “comment upon the culture and attitudes promoted and embodied in” the magazine, used the photo in a transformative manner); *Bill Graham Archives v. Dorling Kindersley Ltd.*, 448 F.3d 605, 609 (2d Cir. 2006) (use of images of Grateful Dead concert posters in a book about the band was transformative because the images were “displayed to commemorate historic events,” and “fair use [affords] protection to the use of copyrighted material in biographies, recognizing such works as forms of historic scholarship, criticism, and comment that require incorporation of original source material for optimum treatment of their subjects”); *Elvis Presley Enters. v. Passport Video*, 349 F.3d 622, 625, 629 (9th Cir. 2003), *as amended*, 357 F.3d 896 (9th Cir.) (use of copyrighted still photographs of Elvis Presley in a 16-hour video documentary about his life was not fair use where the photos were used as “video filler,” were “not highlighted or discussed as objects of the commentary,” and defendant did not “offer up a specific justification regarding its use of” the photos), *cert. denied*, 542 U.S. 921 (2004); *Kelly v. Arriba Soft Corp.*, 336 F.3d 811, 818, 820 (9th Cir. 2003) (Internet search engine’s use of thumbnail pictures of artistic works had the transformative purpose of assisting research, by “index[ing] and improv[ing] access to images” and “benefit[ing] the public by enhancing information-gathering techniques on the internet”); *Castle Rock*, 150 F.3d at 142-43 (trivia book based on *Seinfeld* television episodes was not transformative because it did “not seek

to educate, criticize, parody, comment, report upon, or research *Seinfeld*"); *MCA, Inc. v. Wilson*, 677 F.2d 180, 185 (2d Cir. 1981) (not fair use to "plagiarize" a copyrighted song, "substitute dirty lyrics," "perform it for commercial gain," and then call "the end result a parody or satire on the mores of society"); *Bourne Co. v. Twentieth Century Fox Film Corp.*, 602 F. Supp. 2d 499, 507 (S.D.N.Y. 2009) (fair use upheld, and *MCA v. Wilson* distinguished, where defendants "were clearly attempting to comment" on the "hopeful" scene associated with the song *When You Wish Upon a Star* in the Disney film *Pinnocchio*).

Even though his Paintings were "very quickly done" and "not really thought about" (BDec. Ex. E at 273-74), Prince insisted that his unique artistic technique had transformed and "recontextualiz[ed]" (*id.* at 249) the Photographs, adding "completely a different message and medium," "a completely different look," "a completely different application," and "a new way of collaging." *Id.* at 331. Prince is not the first "appropriation artist" to claim, incorrectly, that, by following in that "artistic tradition," his infringement of another artist's copyright is excused.

In *Rogers v. Koons*, 960 F.2d 301, 304, 309 (2d Cir.), *cert. denied*, 506 U.S. 934 (1992), Jeff Koons, a contemporary artist, emulated the tradition of Marcel Duchamp and Andy Warhol by incorporating existing objects ("readymades") into new works of art in order to give them new meaning. The Second Circuit found that Koons' sculpture incorporating a copyrighted photograph was not fair use because while the sculpture was a "satirical critique of our materialistic society, it is difficult to discern any parody of the photograph . . . itself." *Id.* at 310.

As the Court added:

We think this is a necessary rule, as were it otherwise there would be no real limitation on the copier's use of another's copyrighted work to make a statement on some aspect of society at large. If an infringement of copyrightable expression could be justified as fair use solely on the basis of the infringer's claim to a higher or different artistic use – without insuring public awareness of the original work – there would be no practicable boundary to the fair use defense. Koons' claim that his infringement of Rogers' work is fair use solely because he is acting within

an artistic tradition of commenting upon the commonplace thus cannot be accepted. *Id.* at 310.

Similarly, in *United Feature Syndicate, Inc. v. Koons*, 817 F. Supp. 370, 372 (S.D.N.Y. 1993), Koons claimed he was following in Warhol's footsteps by appropriating images and "recontextualizing" them into sculptures in order to convey a new message or idea. Judge Leisure rebuffed Koons' fair use defense, stating:

The fact that the infringing copy can be classified as 'art' or as being part of an 'artistic tradition' cannot be used as a shield to salvage an otherwise defective fair use defense. The creation of musical compositions, films, plays, and literature can all be characterized as 'art' or 'artistic expression.' If the subjective classification of an otherwise infringing work as 'art' automatically immunized such work under the fair use doctrine, the doctrine would virtually eviscerate the protection afforded by the Copyright Act. *Id.* at 379.

Nor does Prince's creation of a "different look," fixed in a "different medium," render his plagiarism transformative. *See Gaylord v. United States*, 595 F.3d at 1373 (postage stamp which "altered the appearance of [the Korean War Veterans Memorial] by adding snow and muting the color," infringed three-dimensional sculpture); *Elvis Presley Enters.*, 349 F.3d at 625 (video documentary infringed still photograph); *Castle Rock*, 150 F.3d at 135 (book of trivia questions and answers about 84 *Seinfeld* television episodes infringed the television show); *Rogers v. Koons*, 960 F.2d at 305, 312 (polychromatic painted three-dimensional wood sculpture infringed two-dimensional black and white photo taken from a notecard).

The less transformative a work, the more "the extent of its commerciality" becomes important. *Campbell*, 510 U.S. at 580; *see American Geophysical Union v. Texaco Inc.*, 60 F.3d 913, 922 (2d Cir. 1995) ("The greater the private economic rewards reaped by the secondary user (to the exclusion of broader public benefits), the more likely the first factor will favor the copyright holder and the less likely the use will be considered fair.") It would be hard to imagine a slicker and starker example of "commercial exploitation" (*id.*) than the defendants' marketing

of these Paintings, through ads in seven different newspapers, five depicting Cariou's Rastas; 7,500 announcements cards, a press release, and a piece in *Interview Magazine* all featuring Cariou's Rastas; and an exhibition catalogue, claiming copyright ownership of Cariou's images, containing James Frey's name on its title page in order to elicit Google hits, all targeted at an elite audience of celebrities and billionaires having "proof" that they would "BUY" works of art hastily thrown together by Prince without much thought, resulting in the defendants pocketing over \$10 million in cash and another \$6 to \$8 million in bartered art, selling off the leftover announcement cards and retiring the unsold art to storage, where no one from the public can see it. If any additional evidence is needed that the defendants are in the business of hawking a luxury product rather than helping expand the public's access to new artistic expression, one need only consider Gagosian Gallery's treatment of the appropriation artist Eric Doeringer, who was intimidated into abandoning an artistic project indistinguishable from Prince's.

C. Second Fair Use Factor: The Nature of the Copyrighted Work is Expressive and Creative, Fitting Squarely Within the Core of Copyright Protection

The second fair use factor recognizes "that some works are closer to the core of intended copyright protection than others, with the consequence that fair use is more difficult to establish when the former works are copied." *Campbell*, 510 U.S. at 586. "[P]hotographs taken for aesthetic purposes [] are creative in nature and thus fit squarely within the core of copyright protection." *Elvis Presley Enters.*, 349 F.3d at 629. Defendants, however, contend that, because Cariou's Photographs are factually-based, real-life photographs "documenting" Rastafarians in their native environment, they are not creative. This contention – that photographs are merely xerox copies of reality – has been soundly repudiated, most recently by Judge Lynch in *Sarl Louis Feraud Int'l v. Viewfinder Inc.*, 627 F. Supp. 2d 123, 128 (S.D.N.Y. 2008) (quoting a prior decision in the same case): "[T]he notion that photographs merely reproduce reality, and do not apply a creative, or even distorting, eye to the events is long discredited. The photographer

selects the image to be reproduced, capturing a particular angle of view, and that image conveys . . . at best a partial, two-dimensional impression of the [original]. . . .” See *Rogers v. Koons*, 960 F.2d at 310 (“As an original expression [plaintiff’s photograph] has more in common with fiction than with works based on facts . . . [and it] was creative and imaginative . . .”); *Baraban v. Time Warner, Inc.*, No. 99 Civ. 1569 (JSM), 2000 WL 358375, at *4 (S.D.N.Y. Apr. 6, 2000) (“Although photographs are often ‘factual or informational in nature,’ the art of photography has generally been deemed sufficiently creative to make the second fair use factor weigh in favor of photographer-plaintiffs.”); *Psihoyos v. National Examiner*, No. 97 Civ. 7625 (JSM), 1998 WL 336655, at *3 (S.D.N.Y. June 22, 1998) (same). Cariou’s Photographs, even the two or three that were not “staged” (in part, because a landscape cannot be “staged”) were taken by a professional photographer who chose the camera, lenses, film, angle, lighting and exposure and oversaw the development of the film in the darkroom to exacting specifications. As such, they are plainly creative and expressive, within the core protection of copyright.

D. Third Fair Use Factor: The Taking from the Copyrighted Work Was Excessive

The third fair use factor, “the amount and substantiality of the portion used in relation to the copyrighted work as a whole,” examines what was taken from the copyrighted work, not how much of the infringing work (such as the nude women and guitars added by Prince) was not taken. See *NXIVM Corp. v. Ross Inst.*, 364 F.3d 471, 480 (2d Cir.) (declining to consider the ratio of copied material to original material in the infringing work because “the statutory enumeration of the third factor plainly requires only an analysis ‘in relation to the copyrighted work,’ not the infringing work.”), *cert. denied*, 543 U.S. 1000 (2004); see *Harper & Row*, 471 U.S. at 565 (“[A] taking may not be excused merely because it is insubstantial with respect to the infringing work. As Judge Learned Hand cogently remarked, ‘no plagiarist can excuse the wrong by showing how much of his work he did not pirate.’” (citation omitted)); *United Feature v. Koons*, 817 F. Supp. at 378 (grouping appropriated image with two other

images did not create a “completely distinct and different work from the copyrighted” work.)

“Fragmentary copying is more likely to have a transformative purpose than wholesale copying.” *Davis v. Gap, Inc.*, 246 F.3d 152, 175 (2d Cir. 2001). “Even more critical than the quantity is the qualitative degree of the copying: what degree of the essence of the original is copied in relation to its whole.” *Rogers v. Koons*, 960 F.2d at 311 (essence of Rogers’ photograph was copied nearly *in toto*). See *Harper & Row*, 471 U.S. at 565 (defendant took the heart of President Ford’s book by taking his brief description of his pardon of former President Nixon); *Campbell v. Koons*, 91 Civ. 6055 (RO), 1993 WL 97381, at *3 (S.D.N.Y. Apr. 1, 1993) (“taking ‘the heart of’ a copyrighted work, even if the taking is quantitatively insubstantial, militates against fair use.”). By taking entire Photographs of Rastas and copious portions of landscapes, Prince took the “heart” of Cariou’s work.

The third factor also “asks whether the amount used is ‘reasonable in relation to the purpose of the copying.’” *Campbell*, 510 U.S. at 586 (citation omitted). Thus, in *Blanch v. Koons*, 467 F.3d at 248, where Koons “wanted to comment on the commercial images in our consumer culture,” he took a fragment of a photo showing a woman’s legs and feet resting on a man’s lap in a first-class airplane cabin that, in its essence, “was supposed to have an erotic sense and a sexuality,” and fulfilled his transformative purpose by taking “only the legs and feet from the photo [and inverting their orientation], discarding [the rest].” In *Bill Graham Archives*, 448 F.3d at 611, the sizes of the images of the concert posters were significantly reduced, using the “minimal image size necessary to accomplish its transformative purpose” of enriching the presentation of the cultural history of the Grateful Dead. Conversely, in *Warner Bros. Entm’t v. RDR Books*, 575 F. Supp. 2d 513, 544 (S.D.N.Y. 2008), an otherwise transformative “lexicon” of the Harry Potter stories – a research tool – transgressed the third factor because of excessive and verbatim copying of the “vividness” of the author’s language, “demonstrat[ing] [defendant’s]

lack of restraint due to an enthusiastic admiration of Rowling's artistic expression, or perhaps haste and laziness . . ." Prince's unrestrained copying and enlargement of entire Photographs, just because he "loved the look, and [he] loved the dreads," was similarly excessive.

The third fair use factor focuses on the copyrighted work "as a whole." Cariou's copyrighted work is a compilation, which protects each "copyrightable component" of the work, giving Cariou "the right to sue for infringement of each original, copyrightable [Photograph] that [he] contributed to [the compilation]." *Eastern Am. Trio Prods, Inc. v. Tang Elec. Corp.*, 97 F. Supp. 2d 395, 416-17 (S.D.N.Y. 2000); see *Faulkner v. Nat'l Geographic Soc'y*, 211 F. Supp. 2d 450, 462 (S.D.N.Y. 2002) (same), *aff'd*, 409 F.3d 26 (2d Cir.), *cert. denied*, 546 U.S. 1076 (2005). Accordingly, the third factor weighs decisively against fair use even though Prince copied entire Photographs, rather than the entire *Yes Rasta* book.

E. Fourth Fair Use Factor: Defendants' Appropriation of Cariou's Photographs Adversely Affected the Potential Market for the Copyrighted Work

The fourth fair use factor "requires courts to consider not only the extent of market harm caused by the [infringer's] actions," but also "[any] substantially adverse impact on the potential market' for the original . . . [or] harm to the market for derivative works." *Campbell*, at 590 (citation omitted). There cannot be any dispute that the defendants' actions at least harmed the potential market for *Yes Rasta*, which Celle planned to have reprinted for a book signing in conjunction with an exhibition of Cariou's Photographs, and for prints of the Photographs, which Celle planned to sell at prices ranging between \$3,000 and \$20,000 and to market to decorators and entertainment figures with whom she worked. It is undisputed that Celle abandoned these plans because Prince appropriated Cariou's Photographs and she did not want to appear to be capitalizing on Prince's success and notoriety and did not want to exhibit work which had been "done already" at a famous nearby art gallery. The fact that *Yes Rasta* was "out of print is not dispositive - - the statute focuses on the *potential* market for the original

work.” *Robinson v. Random House, Inc.*, 877 F. Supp. 830, 843 (S.D.N.Y. 1995) (emphasis in original). The fact that Cariou had not previously made any concerted efforts to sell his prints (because, as he explained, he wanted first to complete photography for his fourth book, about Gypsies) is irrelevant. The right to decide if and when to market copyrighted work belongs exclusively to the copyright owner and may not be preempted by others. *See Castle Rock*, 150 F.3d at 145-46 (Although copyright owner had “evidenced little if any interest in exploiting [the] market for derivative works based on *Seinfeld*,” the copyright laws “must respect that creative and economic choice.”); *Salinger v. Random House, Inc.*, 811 F.2d 90, 99 (2d Cir.) (“[T]he need to assess the effect on the market for Salinger’s letters is not lessened by the fact that their author has disavowed any intention to publish them during his lifetime. First, the proper inquiry concerns the ‘potential market’ for the copyrighted work [internal citation omitted]. Second, Salinger has the right to change his mind. He is entitled to protect his *opportunity* to sell his letters, . . .”) (emphasis in original), *cert. denied*, 484 U.S. 890 (1987).

F. Aggregate Analysis: All Four Factors Weigh Heavily Against Fair Use

The fair use doctrine exists because of the “tension” between two competing interests – the “property rights” of copyright owners versus the right of artistic expression “by reference to the works of others” – and “mediates between the two sets of interests, determining where each set of interests ceases to control.” *Blanch v. Koons*, 467 F.3d at 250. To apply fair use to allow anyone, in the name of “art,” blatantly to copy any creative work that he happens to “like” in order to doodle on it and create a “different look,” “different application,” and a “new way of collaging,” would invite unlimited piracy, usurp potential markets for copyrighted visual works and skew the fair use doctrine by eliminating the copyright owner’s interest, while placing courts in the ill-suited role of deciding what is “art” and who is an “appropriation artist.” *See Bleistein v. Donaldson Lithographing Co.*, 188 U.S. 239, 251 (1903) (Holmes, J.) (“It would be a

dangerous undertaking for persons trained only to the law to constitute themselves final judges of the worth of pictorial illustrations, outside of the narrowest and most obvious limits.”)

POINT II

WITHOUT A VIABLE FAIR USE DEFENSE, ALL OF THE DEFENDANTS ARE LIABLE FOR COPYRIGHT INFRINGEMENT

Copyright infringement has two elements: “(1) ownership of a valid copyright, and (2) copying of constituent elements of the work that are original.” *Feist Publ’ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 361 (1991). To be “original,” a copyrighted work must have been independently created by the author and must possess “at least some minimal degree of creativity,” although “the requisite level of creativity is extremely low; even a slight amount will suffice.” *Id.* at 345. Cariou’s certificate of registration filed with the U.S. Copyright Office is *prima facie* evidence both of valid ownership of a copyright and of originality. *Boisson v. Banian, Ltd.*, 273 F.3d 262, 268 (2d Cir. 2001); 17 U.S.C. § 410(c). In any event, as recognized long ago (*Burrow-Giles Lithographic Co. v. Sarony*, 111 U.S. 53, 60 (1884)), “[a]lmost any photograph ‘may claim the necessary originality to support a copyright.’ [citation omitted].” *Mannion v. Coors Brewing Co.*, 377 F. Supp. 2d 444, 450 (S.D.N.Y. 2005) (collecting cases).

Prince, in creating the Paintings, and Gagosian Gallery, in publishing the Canal Zone Catalogue, admittedly copied Cariou’s Photographs and also infringed Cariou’s exclusive rights, as copyright owner of the Photographs, to reproduce, prepare derivative works based upon, distribute, sell and display the Photographs. *See* 17 U.S.C. § 106(1), (2), (3) and (5). In addition, both Gagosian Gallery and Gagosian are liable as contributory and vicarious infringers.

Even if Gagosian Gallery and Gagosian did not know that Prince had appropriated images belonging to Cariou that were protected by copyright, they knew he had a practice of appropriating images belonging to others and yet did nothing to ascertain where he had obtained

the images he took from *Yes Rasta* and whether those images were copyrighted. BDec. Ex. C ¶ 18; Ex. G at 17-18; Ex. H at 91-92. They also received Cariou's cease and desist letter on December 11, 2008, yet continued on with the Canal Zone show. BDec. Ex. C ¶¶ 24-25. "Equally liable with direct infringers are 'contributory' infringers, those who with knowledge of or reason to know of the infringing activity of another materially contribute to the infringement." *RSO Records, Inc. v. Peri*, 596 F. Supp. 849, 852 (S.D.N.Y. 1984). "Advertising or otherwise promoting an infringing product or service may be sufficient to satisfy the material contribution prong." *Faulkner v. Nat'l Geographic Soc'y*, 211 F. Supp. 2d at 473-74.

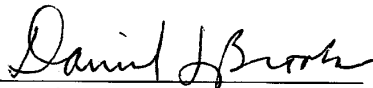
Gagosian Gallery and Gagosian (who either owned all of the stock of Gagosian Gallery, or "may have given [his] sister a small piece of it" (BDec. Ex. F at 17)), profited from the *Canal Zone* show, over which they had control. "Benefit and control are the signposts of vicarious liability." *Faulkner*, 211 F. Supp. 2d at 472. Vicarious liability arises "when [as here] the defendant profits directly from the infringement and has a right and ability to supervise the direct infringer, even if the defendant initially lacks knowledge of the infringement." *Metro-Goldwyn-Mayer Studios Inc. v. Gorkster, Ltd.*, 545 U.S. 913, 931 n.9 (2005).

CONCLUSION

For the foregoing reasons, it is respectfully requested that summary judgment be entered finding each of the defendants liable for copyright infringement.

Dated: New York, New York
May 14, 2010

SCHNADER HARRISON SEGAL & LEWIS LLP

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
PATRICK CARIOU,

Plaintiff,

-against-

RICHARD PRINCE, GAGOSIAN
GALLERY, INC., LAWRENCE
GAGOSIAN and RIZZOLI
INTERNATIONAL PUBLICATION, INC.,

Defendants.
-----X

**NOTICE OF MOTION FOR
SUMMARY JUDGMENT**

No. 08-CV-11327 (DAB)

PLEASE TAKE NOTICE that, upon the affidavit of Hollis Gonerka Bart, sworn to on May 14, 2010 and the exhibits thereto, the affidavit of Richard Prince sworn to on May 13, 2010 and the exhibit thereto, the statement, pursuant to Local Rule 56.1, of material facts as to which there is no genuine issue to be tried, the defendants' Memoranda of Law, dated May 14, 2010, and the pleading and prior proceedings herein, defendants Richard Prince, Gagosian Gallery, Inc., and Lawrence Gagosian will move the Court, before the Honorable Deborah A. Batts, at the United States Courthouse, 500 Pearl St., New York, NY 10007, in accordance with the scheduling order dated March 19, 2010, as amended by the memorandum endorsements dated April 6, 2010 and May 5, 2010, for an order pursuant to Rule 56 of the Federal Rules of

Procedure, granting defendants' motion for summary judgment dismissing defendants' complaint, with prejudice and in the entirety, on their fair use defense, and dismissing plaintiff's conspiracy claim as frivolous and preempted by federal copyright law, and for such other and further relief as to the Court appears just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Court's scheduling order, as amended, plaintiff's opposition papers shall be served and filed by June 14, 2010, and defendants' reply papers shall be served and filed on June 24, 2010.

Dated: New York, New York
May 14, 2010

Respectfully submitted,

WITHERS BERGMAN LLP

By: Hollis Gonerka Bart

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

PATRICK CARIOU,

Plaintiff,

-against-

RICHARD PRINCE, GAGOSIAN GALLERY, INC.,
LAWRENCE GAGOSIAN, and RIZZOLI
INTERNATIONAL PUBLICATIONS, INC,

Defendants.

No. 08-CV-4046 (JSR)

**AFFIDAVIT OF
HOLLIS GONERKA BART IN
SUPPORT OF DEFENDANTS'
RICHARD PRICE, GAGOSIAN
GALLERY, INC. AND
LAWRENCE GAGOSIAN'S
JOINT MOTION FOR
SUMMARY JUDGMENT**

-----X

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

Hollis Gonerka Bart, being duly sworn, deposes and says:

1. I am a member of the bar of the state of New York and of this Court and a member of the law firm of Withers Bergman LLP, attorney for defendants Gagosian Gallery, Inc. and Lawrence Gagosian (collectively "Gagosian"), and I submit this affidavit on behalf of Gagosian and Richard Prince in support of Defendants' Joint Motion for Summary judgment to place before the Court true and correct copies of documents and testimony adduced in discovery, or publicly available documents.

2. Annexed hereto as Exhibit A is a true and correct copy of The Tate Collection's Glossary defining the term appropriation art. *See* <http://www.tate.org.uk/collections/glossary/definition.jsp?entryId=23> (last visited Apr. 15, 2010).
3. Annexed hereto as Exhibit B is a true and correct of The Tate Collection's Glossary defining the term collage. *See* <http://www.tate.org.uk/collections/glossary/definition.jsp?entryId=70> (last visited Apr. 23, 2010).
4. Annexed hereto as Exhibit C is a true and correct copy of The Tate Collection's information on Marcel Duchamp's *Fountain*, 1917. *See* <http://www.tate.org.uk/servlet/ViewWork?workid=26850> (last visited Apr. 23, 2010).
5. Annexed hereto as Exhibit D is a true and correct copy of MOMA, The Collection's, information on Andy Warhol's *Gold Marilyn Monroe*, 1962. *See* http://www.moma.org/collection/browse_results.php?criteria=O%3AAD%3AE%3A6246&page_number=29&template_id=1&sort_order=1 (last visited Apr. 23, 2010).
6. Annexed hereto as Exhibit E is a true and correct copy of plaintiff's Amended Complaint, dated January 14, 2009.
7. Annexed hereto as Exhibit F is a true and correct copy of Guggenheim Press Release entitled "Richard Prince: Spiritual America Opens at The Guggenheim Museum September 28." *See* <http://www.guggenheim.org/new-york/press-room/press-releases/press-release-archive/2007/552-richard-prince-spiritual-america-opens-at-the-guggenheim-september-28>, Sept. 21, 2007.

8. Annexed hereto as Exhibit G is a true and correct copy of relevant excerpts from the deposition of Richard Prince, taken on January 12, 2010, together with his signed errata sheet.

9. Annexed hereto as Exhibit H is a true and correct copy of Artnet's listing for Richard Prince works available for sale. *See* <http://www.artnet.com/artist/13785/richard-prince.html>); (last visited May 5, 2010).

10. Annexed hereto as Exhibit I is a true and correct copy of the article from [artcritical.com](http://www.artcritical.com), which is entitled "Eighteen Experts Talk With Brian Appel on the \$1,248,000 Richard Prince Photograph that Has Set a New World Auction Record for Photography." *See* <http://www.artcritical.com/appel/BAPrinceRecord.htm>, Dec. 2005.

11. Annexed hereto as Exhibit J is a true and correct copy of an article from ArtDaily which is entitled "Sotheby's July 2008 Contemporary Art Evening Sale Triumphs." *See* http://www.artdaily.com/index.asp?int_sec=2&int_new=24974, Jul. 2, 2008.

12. Annexed hereto as Exhibit K is a true and correct copy of an except from Trust & Estates, August 2008 Table of Contents, which details the sale price of Richard Prince's "Overseas Nurse." *See* http://trustsandestates.com/toc/toc_080108/, Aug. 14, 2008.

13. Annexed hereto as Exhibit L is a true and correct copy of relevant excerpts from the deposition of Lawrence Gagolian, taken on October 8, 2009, together with his signed errata sheet.

14. Annexed hereto as Exhibit M is a true and correct copy of Richard Prince's book *Canal Zone*, also referred to as "The Catalogue," which is being provided to the Court only, as counsel for Patrick Cariou has previously obtained his own copy of this book.

15. Annexed hereto as Exhibit N is a true and correct copy of the Stipulation, with its corresponding exhibit, entered into on January 25, 2010 between plaintiff and the Gagolian

Gallery which authenticates certain documents and details the economic gains derived by the Gagosian Gallery and Richard Prince from the Canal Zone Paintings

16. Annexed hereto as Exhibit O is a true and correct copy of GGP0043144, the Gagosian Gallery General Ledger for the period from October 1, 2008 to June 30, 2009.

17. Annexed hereto as Exhibit P is a true and correct copy of GG0071-79, which are advertisements for the Canal Zone exhibition.

18. Annexed hereto as Exhibit Q is a true and correct copy of RP00051-58, which is the guest list for the November 8, 2008 dinner held at the Gramercy Park Hotel for Richard Prince.

19. Annexed hereto as Exhibit R is a true and correct copy of relevant excerpts from the deposition of Anthony Petrillose, the Managing Editor of Rizzoli International, taken on October 23, 2009.

20. Annexed hereto as Exhibit S is a true and correct copy of the Stipulation and Order of Dismissal, entered into between plaintiff and Rizzoli International Publications, Inc., and entered by the Court on February 5, 2010.

21. Annexed hereto as Exhibit T is a true and correct copy of the Stipulation entered into between Gagosian and powerHouse Cultural Entertainment, Inc., dated February 1, 2010.

22. Annexed hereto as Exhibit U is a true and correct copy of relevant excerpts from the deposition of Patrick Cariou, taken on January 12, 2010, together with his signed errata sheet.

23. Annexed hereto as Exhibit V is a true and correct copy of plaintiff Patrick Cariou's Answers and Objections to Defendants Gagosian Gallery, Inc. and Lawrence Gagosian's Interrogatories, dated October 5, 2009.

24. Annexed hereto as Exhibit W is a true and correct copy of PH0002, powerHouse's press release announcing the publication of *Yes Rasta*, and categorizing the book as "Photography/Reggae Culture."

25. Annexed hereto as Exhibit X is a true and correct copy of GG004340-43143, a print-out of plaintiff's website which was admitted during his deposition.

26. Annexed hereto as Exhibit Y is a true and correct copy of relevant excerpts from the deposition of Christiane Celle, taken on January 26, 2010.

27. Annexed hereto as Exhibit Z is a true and correct copy of Daniel Brooks' February 8, 2010 letter to Judge Batts.

28. Annexed hereto as Exhibit AA is a true and correct copy of GGP003115 - 16, which is the inside jacket cover of *Yes Rasta*.

29. Annexed hereto as Exhibit BB is a true and correct copy of the definition of appropriation art from ArtLex. See <http://www.artlex.com/ArtLex/a/appropriation.html>, last accessed May 14, 2010.

30. Annexed hereto as Exhibit CC is a composite exhibit containing true and correct copies of images of Rastafarians, tropical landscapes and marijuana plantations which can be found on the Internet.

31. Annexed hereto as Exhibit DD is a true and correct copy of the Certificate of Copyright Registration for the book entitled, *Yes Rasta* (CC0001-2).

32. Annexed hereto as Exhibit EE is a true and correct photocopy of the original of Patrick Cariou's book entitled *Yes Rasta* that was marked as an exhibit during his deposition taken on January 12, 2010.

Dated: New York, New York
May 14, 2010


HOLLIS GONERKA BART

Subscribed to and sworn to before me this 14th day of May, 2010


NOTARY PUBLIC

ALYSSA KOERNER
Notary Public, State of New York
No. 02BE6123029
Qualified in New York County
Commission Expires February 28, 2012

TATE

TATE COLLECTION

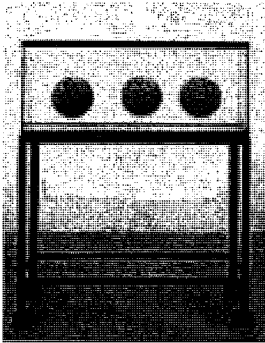
Glossary

Browse terms

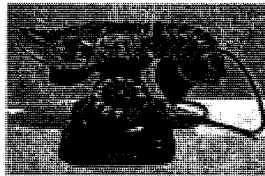
A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

Appropriation

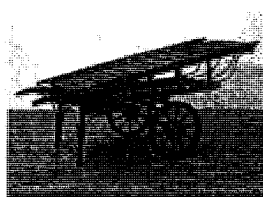
As a term in art history and criticism refers to the more or less direct taking over into a work of art of a real object or even an existing work of art. The practice can be tracked back to the Cubist collages and constructions of Picasso and Georges Braque made from 1912 on, in which real objects such as newspapers were included to represent themselves. Appropriation was developed much further in the readymades created by the French artist Marcel Duchamp from 1915. Most notorious of these was Fountain, a men's urinal signed, titled, and presented on a pedestal. Later, Surrealism also made extensive use of appropriation in collages and objects such as Salvador Dalí's Lobster Telephone. In the late 1950s appropriated images and objects appear extensively in the work of Jasper Johns and Robert Rauschenberg, and in Pop art. However, the term seems to have come into use specifically in relation to certain American artists in the 1980s, notably Sherrie Levine and the artists of the Neo-Geo group particularly Jeff Koons. Sherrie Levine reproduced as her own work other works of art, including paintings by Claude Monet and Kasimir Malevich. Her aim was to create a new situation, and therefore a new meaning or set of meanings, for a familiar image. Appropriation art raises questions of originality, authenticity and authorship, and belongs to the long modernist tradition of art that questions the nature or definition of art itself. Appropriation artists were influenced by the 1934 essay by the German philosopher Walter Benjamin, *The Work of Art in the Age of Mechanical Reproduction*, and received contemporary support from the American critic Rosalind Krauss in her 1985 book *The Originality of the Avant-Garde and Other Modernist Myths*. Appropriation has been used extensively by artists since the 1980s.



Jeff Koons
*Three Ball Total Equilibrium
Tank (Two Dr J Silver Series,
Spalding NBA Tip-Off)*
1985



Salvador Dalí
Lobster Telephone
1936



Michael Landy
Costermonger's Barrow II
1991

TATE

TATE COLLECTION

Glossary

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A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

Collage

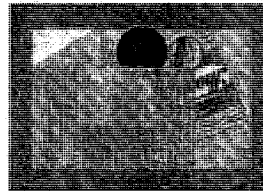
Collage is a term used to describe both the technique and the resulting work of art in which pieces of paper, photographs, fabric and other ephemera are arranged and stuck down to a supporting surface. Collage can also include other media such as painting and drawing, and contain three-dimensional elements. The term collage derives from the French words *papiers collés* or *décollage*, used to describe techniques of pasting paper cut-outs onto various surfaces. It was first used as an artists' technique in the twentieth century.



Ben Nicholson OM
Jan 27 1933
1933



Sir Eduardo Paolozzi
Meet the People
1948



Margaret Mellis
Sobranie Collage
1942



Work

Work On Display Images Subjects Texts Links

Marcel Duchamp 1887-1968

Fountain 1917, replica 1964

Porcelain

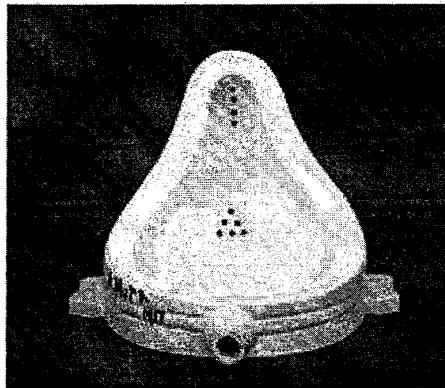
unconfirmed: 360 x 480 x 610 mm
sculpture

Purchased with assistance from the Friends
of the Tate Gallery 1999

T07573

Fountain is the most famous of Duchamp's so-called ready-made sculptures ordinary manufactured objects designated by the artist as works of art. It epitomises the assault on convention and accepted notions of art for which Duchamp became known. The original, which is now lost, consisted of a standard urinal, laid flat on its back and signed with a pseudonym, 'R. Mutt 1917'. This work is one of a small number of replicas which Duchamp authorised in 1964, based on a photograph of the original by Alfred Stieglitz.

(From the display caption September 2004)



© Succession Marcel Duchamp/ADAGP, Paris and DACS,
London 2002

Tate Collec

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THE COLLECTION

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<input type="checkbox"/> Recent Acquisition	<input type="checkbox"/> Drawings	<input type="checkbox"/> 1990s
<input type="checkbox"/> Highlights	<input type="checkbox"/> Film	<input type="checkbox"/> 1980s
<input type="checkbox"/> E-Cards	<input type="checkbox"/> Media and Performance Art	<input type="checkbox"/> 1970s
<input type="checkbox"/> With Images	<input type="checkbox"/> Painting and Sculpture	<input type="checkbox"/> 1960s
	<input type="checkbox"/> Photography	<input type="checkbox"/> 1950s
	<input type="checkbox"/> Prints and Illustrated Books	<input type="checkbox"/> 1940s
		<input type="checkbox"/> 1930s
		<input type="checkbox"/> 1920s
		<input type="checkbox"/> before 1920

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Andy Warhol. (American, 1928-1987)

29 of 137

On view

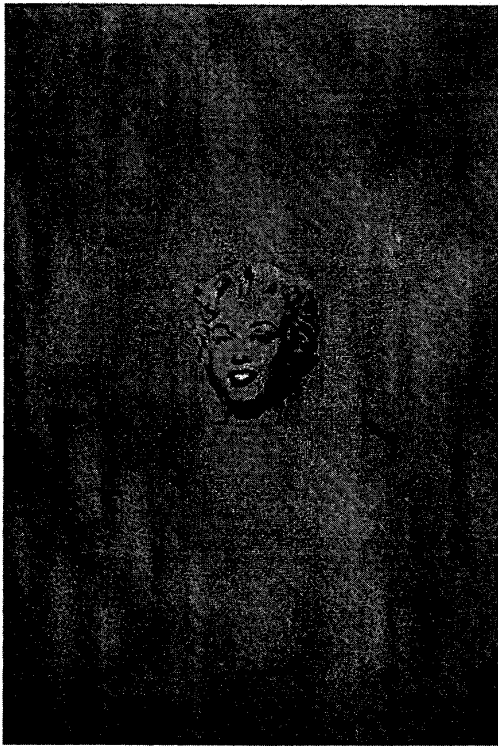





IMAGE PERMISSIONS

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Gold Marilyn Monroe

Andy Warhol (American, 1928-1987)

1962. Silkscreen ink on synthetic polymer paint on canvas, 6' 11 1/4" x 57" (211.4 x 144.7 cm). Gift of Philip Johnson
 Arts / Artists Rights Society (ARS), New York

316.1962

Publication Excerpts

The Museum of Modern Art, *MoMA Highlights*, New York: The Museum of Modern Art, n.p. 241

Marilyn Monroe was a legend when she committed suicide in August of 1962, but in retrospect her life seems a grander death, Warhol based many works on the same photograph of her, a publicity still for the 1953 movie *Niagara*. He used turquoise, green, blue, lemon yellow—then silkscreened Monroe's face on top, sometimes alone, sometimes doubled, face, the golden field in *Gold Marilyn Monroe* (the only one of Warhol's Marilyns to use this color) recalls the religious iconography; however, that the work suffuses with a morbid allure.

In reduplicating this photograph of a heroine shared by millions, Warhol denied the sense of the uniqueness of the painting of the 1950s. He also used a commercial technique—silkscreening—that gives the picture a crisp, artificial her public image as a carefully structured illusion. Redolent of 1950s glamour, the face in *Gold Marilyn Monroe* is not bold, yet vulnerable; compelling, yet elusive. Surrounded by a void, it is like the fadeout at the end of a movie.

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GUGGENHI

Richard Prince: Spiritual America Opens at the Guggenheim September 28

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RICHARD PRINCE: SPIRITUAL AMERICA OPENS AT THE GUGGENHEIM MUSEUM SEPTEMBER 28

(NEW YORK, NY – September 21, 2007) Richard Prince: Spiritual America, a critical overview of the celebrated American artist's work, will open at the Solomon R. Guggenheim Museum on September 28. This comprehensive examination highlights Prince's contributions to the development of contemporary art, bringing together key examples of his photographs, paintings, sculptures, and works on paper in an installation that integrates the various series comprising his oeuvre. The exhibition, which was organized by Nancy Spector, Chief Curator, Solomon R. Guggenheim Museum, remains on view through January 9, 2008.

This exhibition is made possible by Deutsche Bank, as well as through the generosity of Barbara Gladstone, The Stephanie and Peter Brant Foundation, Michael Ovitz, Steven and Alexandra Cohen, Larry Gagosian, Sotheby's, and those who wish to remain anonymous.

The Leadership Committee for Richard Prince: Spiritual America is gratefully acknowledged.*

Additional programs are sponsored by HBO.

Media partner Thirteen/WNET

* Sadie Coles, London, Charlotte and Bill Ford, Stellan Holm Gallery, Rafael Jablonka, Caroline Hirsch and Andrew Fox, Jean-Pierre and Rachel Lehmann, Linda and Harry Macklowe, Julie and Edward J. Minskoff, Adriana and Robert Mnuchin, Dr. and Mrs. Frank M. Moore, Gael Neeson and Stefan Edlis, Amy a John Phelan, Michael Ringier, Keith and Inga Rubenstein, Robert M. Rubin an Stéphane Samuel, Allison and Neil Rubler, Per and Helena Skarstedt, Jennifer Blei Stockman, Steven and Lisa Tananbaum

Overview

Richard Prince is one of the most innovative American artists to have emerge during the last 30 years. His deceptively simple act in 1977 of rephotographing advertising images and presenting them as his own ushered in an entirely ne

critical approach to art making; one that questioned notions of originality and privileged status of the unique aesthetic object. Prince's technique involves appropriation; he pilfers freely from the vast image bank of popular culture to create works that simultaneously embrace and critique a quintessentially American sensibility: the Marlboro Man, muscle cars, biker chicks, crude joke-gag cartoons, and pulp fiction. While previous examinations of his art have emphasized its central role as a catalyst for postmodernist criticism, the Guggenheim exhibition and its accompanying catalogue also focus on the work's iconography and how it registers prevalent themes in our social landscape, including a fascination with rebellion, an obsession with fame, and a preoccupation with the tawdry and the illicit.

Appropriation

"I went to see a psychiatrist. He said, 'tell me everything.' I did, and now he's doing my act." This one-liner, one in the repertoire of recycled jokes appearing throughout the work of Richard Prince, describes an illicit act of appropriation which an existing narrative becomes the source for an entirely new performance. It is a paradigm that provides a succinct introduction to Prince's creative process in which the subject matter for his art is taken directly from mass culture—an act of visual piracy that the artist has often referred to as "practicing without a license."

From Marcel Duchamp's signed urinal to Andy Warhol's Brillo boxes, strategic appropriation have long been at the forefront of avant-garde art making. Prince, however, took the radical step of entirely erasing all traces of his hand from the process when, in 1977, he trained his camera lens on four advertisements for luxury home furnishings in the New York Times Magazine and presented them as Untitled (living rooms), his own autonomous artwork. This iconoclastic gesture represented not only the defining breakthrough of Prince's career but also a revolutionary challenge to the modernist concepts of originality and authorship which were then under interrogation by a generation of artists associated with postmodern theory.

Save for the removal of all identifying text and some careful cropping, the rephotographed images remained unchanged, and yet they appear transformed by their new context. What would fail to elicit a second glance in the pages of a magazine is revealed to be a highly orchestrated fiction; the pictures that Prince was re-presenting were themselves idealized simulations of reality. The artist's day job in the tear-sheet department of Time Life publications allowed him to immerse himself in this parallel universe of consumer aspiration, and he began to marshal images of fashion models, popular brands, and luxury goods into series of patterns, revealing a succession of highly codified visual clichés.

The Series

The simultaneous embrace and critique of mass culture that is at the core of Prince's art is powerfully articulated in the Cowboys, the series of photographs begun in 1980, appropriated from the long-running advertising campaign for Marlboro cigarettes. Elevated in the public imagination from humble ranch hand to individualistic hero, the cowboy is the ultimate icon of American manhood. Marlboro men embody this archetype, aided by expansive natural backdrops that draw on both the tradition of American landscape painting and the spectacle of Hollywood Westerns. While Prince amplifies the seductive appeal of these stylized images and studiously eschews any overt moral commentary, the irony of pressing an ideal of rugged health into the service of selling addiction is ever present in the work.

Prince's attraction to the incendiary potential of photography is writ large in his appropriated 1983 photograph Spiritual America, showing a naked, prepubescent

Brooke Shields posing in a brothel-like atmosphere, her face made up like a grown woman's. First exhibited by Prince in a makeshift gallery on Manhattan's Lower East Side, the original photograph was at the time the subject of a protracted lawsuit between Shields and the photographer, Gary Gross, over the ownership of its copyright. By then a well-known actress, Shields wanted to prevent further commercialization of the picture, which had been taken with her mother's full consent. For Prince, this troubling image and its controversial history encapsulate the dueling impulses at the heart of the American psyche, with its overarching puritan ethics countered by a yearning for recognition, even at the price of transgression and degradation.

In 1984, Prince developed a new compositional format that prompted him to look beyond the glossy fabrications of the mainstream media toward the more marginal corners of the cultural landscape. Inspired by a commercial printing technique in which individual slides are grouped, or "ganged," into one sheet of images, the Gangs allowed him to combine disparate appropriated images into a single photographic print. Drawing his material from the pages of tabloids and special-interest magazines, Prince created alternative pantheons of monster-truck enthusiasts, rockers, porn stars, and paparazzi victims, as well as visual lexicons of related forms such as desert islands, crashing waves, or cloudy skies. Each of these works presents a study in juxtaposition, designed to elucidate the formal and thematic relationships between the images.

During the same period, Prince started to hand-copy cartoons from the pages of the New Yorker and Playboy magazines. These straightforward transcriptions were soon succeeded by a more layered and allusive form of appropriation, in which silkscreened cartoon graphics, usually illustrating moments of discovered infidelity, were twinned with an unrelated joke, creating an unsettling hybrid narrative. In other canvases, Prince dispensed with images all together, reducing the lowbrow gags to bands of text dissecting uniform color fields—an attempt to create a deadpan, off-the-shelf appearance that offers an irreverent reworking of Minimalist painting.

This iconography returned in more fractured form in the White Paintings of the 1990s, in which a disorientating fusion of jokes and fragmented cartoon graphics, as well as silkscreened photographs and abstract patterns, emerge from washes of muted hues, imbuing the complex compositions with a hallucinatory quality. Joke paintings remain an important presence in Prince's practice today, but in contrast to the reductive aesthetic of the earlier monochromatic works, they are now swathed in translucent layers of mottled pigment, the words hand-stenciled in broken snatches that are sometimes barely legible. The Check Paintings, begun in 1999, are a further permutation of this series, in which the gag line is embedded in collaged grids comprising bank checks (usually from the artist's own account) or repeated images of bands, celebrities, and vintage pornography.

A similar trajectory toward a more gestural style can be traced in the ongoing series of Hood sculptures that Prince initiated in the late 1980s. These works appropriate the fiberglass replacement car hoods advertised in magazines catering to muscle-car fanatics. While Prince farmed out his earliest Hoods to body shops to achieve a slick commercial finish, he has since come to use their surfaces as supports for expressionistic hand-painting. Whether hanging relief-like on the wall or supported by plywood pedestals, these abstracted sculptures retain the visceral associations of their origins, evoking dreams of customized automobiles and the reckless allure of the open road.

Prince's Girlfriend photographs, initiated in 1990, suggest a similar sense of escapism through their source in outlaw biker culture. Rephotographed from the amateur snapshots found in the back pages of magazines such as Easyriders,

these awkwardly posed, crudely shot images of girls draped across their boyfriends' motorcycles fall painfully short of the centerfolds they imitate.

In 1996, Prince moved from Manhattan, his base for more than two decades, to a small town in upstate New York. This change in environment engendered a shift in his process to encompass documentation as well as appropriation, as he began to use his everyday surroundings as subjects for the series of photographs *Untitled* (upstate). These images have neither the slick polish of the mass media nor the raw edge of counterculture rebellion, focusing instead on the unremarkable and the overlooked. Prince infuses the local vernacular of rusting basketball hoops, homemade tire planters, above-ground pools, and dilapidated garages with a melancholy pathos, uncovering an unexpected lyricism in these homegrown tokens of blue-collar Americana.

Prince is an obsessive collector of books, magazines, memorabilia, and other printed ephemera, and over the past decade he has begun to directly incorporate his ever-expanding collection into his art. Recalling the serial nature of his *Gangs*, the *Publicities* gather autographed headshots of Hollywood stars and other personalities into formally related groupings, enshrining them as relics of our culture's obsession with celebrity. The more recent *Untitled* (original) series is a further variation on these framed archives, in which the original sketches for advertisements and paperbacks are paired either with vintage photographs that tease out their subtexts or with the artist's modified versions of the same images.

In 2002, Prince began his *Nurses*, paintings premised on the classic pulp fiction genre of medical romance novels. Using enlarged inkjet reproductions of the book covers, Prince transforms and partly obscures the figures of the nurses with sheaths of lurid over-painting and the addition of surgical masks, creating simultaneously alluring and threatening spectral presences. Prince's most recent body of work—a series of interactions with the canonic imagery of the Abstract Expressionist artist Willem de Kooning—continues this painterly register. Both homage and desecration, these works seamlessly blend elements from de Kooning's famous *Women* with figures cut from pornographic magazines. The resulting hermaphroditic creatures are hybrids on a number of levels, merging the male with the female, painting with photography, and the refinement of modernist art with the promiscuity of mass cultural representation. This transgression of boundaries is a hallmark of all of Prince's work, exemplifying his vision of a "Spiritual America" fueled by a pervasive desire for rebellion and reinvention.

The Installation

Long interested in the display of his work as part of his overall conceptual practice—as in his own installations *First House* (1993) and *Second House* (2001–07)—Prince sees his art relationally. Rather than organizing the work according to chronology or medium, the Guggenheim installation will intersperse works from Prince's numerous series—including appropriated photographs such as *Cowboys*, *Girlfriends*, and *Gangs*; canvases such as *Jokes*, *White Paintings*, *Check Paintings*, and *Nurses*; and the *Hood* sculptures—to unearth latent thematic relationships. Filling the museum's entire Rotunda and two of its Annex galleries, the exhibition will reveal the iconographic continuity throughout Prince's oeuvre despite the variety of its imagery and technique.

Catalogue

The exhibition is accompanied by a fully illustrated catalogue, featuring a critical overview by Nancy Spector and with an essay by Jack Bankowsky discussing the artist's environmental installations, including the *Spiritual America* gallery, the

First House and Second House, and the Library and Body Shop in upstate New York. In addition, Glenn O'Brien has conducted a series of interviews with a range of prominent figures in the worlds of design, media, entertainment, and commerce: Cliff Einstein, Andy Spade, Olivier Zahm, Robert Mankoff, Michelle Urry, Phyllis Diller, David Steinberg, Annie Proulx, Ned Sublette, Sonny Barger, Dave Nichols, Dian Hansen, J Mays, David Fricke, Kim Gordon, Joe Dolce, Michael Ovitz, John McWhinnie, Robert Lesser, and John Waters—all initiators of popular culture. The interviews form a composite portrait of the artist's themes and provide an insider's view of the formation of mass-cultural taste. Also included is a text that features passages by John Dagg, the artist collaboratively invented by Richard Prince and the New York gallerist Colin de Land in 1986. Softcover \$45; and \$60, hardcover.

Exhibition Tour

Following the Guggenheim's presentation, Richard Prince: Spiritual America will travel to the Walker Art Center, Minneapolis, from March 22 to June 15, 2008, and to the Serpentine Gallery, London, in summer 2008.

On View in The Sackler Center for Arts Exhibition

In conjunction with Richard Prince: Spiritual America, the Sackler Center for Arts Education will present a companion exhibition, First Place: Richard Prince's Early Work, to run concurrently. This didactic exhibition focuses on Prince's early work from the mid-1970s and provides insight into the process that led to his decisive turn to photographic appropriation in 1977. The photo-based works on view, which combine images with text or collaged elements, reveal the artist's formative investigations into the relationship between reality and its representations. This exhibition is organized by Nancy Spector, curator of Richard Prince: Spiritual America.

Curatorial support for both exhibitions has been provided by Katherine Brinson, Curatorial Assistant.

September 21, 2007
#1075

FOR ADDITIONAL INFORMATION CONTACT:

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E-mail: publicaffairs@guggenheim.org

For publicity images go to http://www.guggenheim.org/press_office.html
User ID = photoservice Password = presspass

Public Programs For Richard Prince: Spiritual America

In conjunction with the exhibition, the Sackler Center for Arts Education has organized a roster of public programs related to Richard Prince: Spiritual America. The programs below are introduced by Nancy Spector, Chief Curator. Unless otherwise noted, tickets for Public Programs are \$10 (\$7 for members, students, and seniors). For updated information for ticketed programs, contact the Box Office: call 212 423 3587 or e-mail boxoffice@guggenheim.org

Film Screenings

SAT AND SUN, JAN 5 AND 6

"Why I Go to the Movies Alone"—a series of film screenings ranging from

mainstream hits to cult classics—sheds light on the complex matrix of social compulsions and transgressive desires that underlies Richard Prince's vision of our cultural landscape. Selected by the artist and introduced by special guest hosts, the program reflects the process of collecting and editing pop cultural detritus that lies at the heart of the artist's creative practice. For complete film listings and screening times, visit www.guggenheim.org/prince.

Panel Discussions

WED OCT 3 @ 6:30 PM

"Subcultures and Postmodernism"

Moderator: Johanna Burton. Participants: Simon Critchley, Brian Wallis, and Judith Williamson. Panelists discuss the evolution of Prince's work in the aftermath of 1960s culture, with its revolutionary politics, countercultural leanings, and subsequent commercialization. Taking stock of developments in music, advertising, and the figure of the rebel, this panel recounts theorizations of both popular and offbeat culture and their imaging in the 1980s and beyond.

WED OCT 17 @ 6:30 PM

"Reagan-Era America"

Moderator: Johanna Burton. Participants: Todd Gitlin, and Gil Troy. Panelists consider American culture of the late 1970s and early 1980s, which served as a backdrop for Prince's maturation as an artist. Speakers address American identity and subjectivity before, during, and after the Reagan years, paying special attention to what might now be considered tragicomic artistic reactions to the day's neoconservative politics and administrative changes.

TUE OCT 23 @ 7 PM

"The Worst of Warhol"

Moderators: Jack Bankowsky and Alison M. Gingeras. Participants: Thomas Crow, Wayne Koestenbaum, Robert Nickas, Richard Prince, Scott Rothkopf, and Dorothea von Hantelmann. To mark the 20th anniversary of Andy Warhol's death, "The Worst of Warhol" brings together a distinguished roster of panelists to reconsider the nature of this protean figure's influence. Are Warhol's often demonized "business art" initiatives as central to art today as his iconic Pop art canvases? Focusing on Warhol as publisher, collector, chronicler, publicist, and progenitor of a larger-than-life public persona, discussants entertain the provocation: Is the worst of Warhol really the best of Warhol? This event is co-sponsored by Artforum.

Lectures

TUE OCT 30 @ 6:30 PM

"What's Not to Like?"

Focusing on the work of Richard Prince and other artists emerging in the late 1970s and early 1980s, art historian and critic Johanna Burton questions the easy understanding and historicizing of "appropriation."

TUE NOV 6 @ 6:30 PM

"Prince Among Men"

Richard Meyer, Associate Professor, University of Southern California, and author of *Outlaw Representation: Censorship and Homosexuality in Twentieth-Century American Art*, addresses issues of masculinity in the work and critical reception

of Richard Prince. Cowboys, nurses, biker chicks, car hoods, and other landscapes of desire in Prince's work and world are addressed.

WED JAN 9 @ 7 PM

"Richard Prince Selects Shorts: A Night at Symphony Space and the Guggenheim"

Find out which writers inspire ardent bibliophile Richard Prince at this evening of Selected Shorts: A Celebration of the Short Story, the acclaimed NPR program. The artist selects stories for this double feature of literature and art, which begins at Symphony Space with short story readings by Broadway and Hollywood actors and concludes with a private viewing of the exhibition Richard Prince: Spiritual America at the Guggenheim Museum. Advance tickets \$26; day of show \$30; Symphony Space and Guggenheim Members \$24. Rush tickets (as available before showtime) \$10. Box Office: 212 864 5400 or visit www.symphonyspace.org

The Elaine Turner Cooper Education Fund: Conversations with Contemporary Artists

In conjunction with the exhibition Richard Prince: Spiritual America, this season's series invites a younger generation of American artists whose work shares Prince's embrace of popular culture and his critical engagement with issues of performativity. The program is introduced by a curator and is followed by a reception with the artists.

TUE NOV 20 @ 6:30 PM

Drawing from the vast reservoir of mass-media visual culture—from advertisements and bumper stickers to pirated images of old master paintings and Internet video downloads—artists Nate Lowman (b. 1979) and Seth Price (b. 1973) interrogate various systems of information dispersion while pointing to the social, economic, or political forces that drive them.

TUE NOV 27 @ 6:30 PM

John Kelsey is a member of the artist collective Bernadette Corporation and cofounder (with Emily Sundblad) of Reena Spaulings, a fictional artist/dealer who began operating on New York's Lower East Side in 2004. Bernadette Corporation embraces diverse modes of production while interrogating notions of identity and artistic agency. Spaulings collaborates with the artists she represents, undermining professional divisions of labor while addressing issues of authorship and the mechanisms of the art market.

Admission and Museum Hours

Admission is \$18 for adults, \$15 for students and seniors (65+), and children under 12 are free. Price of admission includes free audioguide. The museum is open Saturday to Wednesday, 10 AM to 5:45 PM, Friday 10 AM to 7:45 PM The museum is closed on Thursday. For general information, please call 212 423 3500 or visit www.guggenheim.org

Condensed Transcript

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PATRICK CARIOU,

Plaintiff,

Index No.:

08 CIV 11327 (DAB)

vs.

RICHARD PRINCE, GAGOSIAN
GALLERY, INC., LAWRENCE
GAGOSIAN, and RIZZOLI
INTERNATIONAL PUBLICATIONS,
INC.,

Defendants.

VIDEOTAPED DEPOSITION OF

RICHARD PRINCE

October 6, 2009
10:00 a.m.

140 Broadway
New York, New York

Reported By:
Bryan Nilsen, RPR



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<p style="text-align: center;">5</p> <p>1 Prince</p> <p>2</p> <p>3</p> <p>4 IT IS HEREBY STIPULATED AND AGREED,</p> <p>5 by and among the attorneys for the</p> <p>6 respective parties herein, that filing and</p> <p>7 sealing be and the same are hereby waived.</p> <p>8</p> <p>9 IT IS FURTHER STIPULATED AND AGREED</p> <p>10 that all objections, except as to the form</p> <p>11 of the question, shall be reserved to the</p> <p>12 time of the trial.</p> <p>13</p> <p>14 IT IS FURTHER STIPULATED AND AGREED</p> <p>15 that the within deposition may be sworn to</p> <p>16 and signed before any officer authorized</p> <p>17 to administer an oath, with the same force</p> <p>18 and effect as if signed and sworn to</p> <p>19 before the Court.</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">7</p> <p>1 Prince</p> <p>2 THE VIDEOGRAPHER: Will the court</p> <p>3 reporter please swear in the witness.</p> <p>4</p> <p>5 RICHARD PRINCE, called as a</p> <p>6 witness, having been duly sworn by a</p> <p>7 Notary Public, was examined and testified</p> <p>8 as follows:</p> <p>9 THE COURT REPORTER: Please state</p> <p>10 your name and address for the record.</p> <p>11 THE WITNESS: Richard Prince,</p> <p>12 151 Righter Road, Rensselaerville,</p> <p>13 New York 12147.</p> <p>14</p> <p>15 EXAMINATION BY</p> <p>16 MR. BROOKS:</p> <p>17 Q. Good morning, Mr. Prince. My name</p> <p>18 is Daniel Brooks. I represent Patrick Cariou</p> <p>19 the plaintiff in this case.</p> <p>20 Can you tell us what your occupation</p> <p>21 is?</p> <p>22 A. I'm an artist.</p> <p>23 Q. I understand you were born in the</p> <p>24 Canal Zone --</p> <p>25 A. Yes.</p>
<p style="text-align: center;">6</p> <p>1 Prince</p> <p>2 THE VIDEOGRAPHER: This is tape</p> <p>3 number 1 in the videotaped deposition of</p> <p>4 Richard Prince, in the matter of Cariou</p> <p>5 versus Richard Prince, being heard before</p> <p>6 the U.S. District Court, Southern District</p> <p>7 of New York.</p> <p>8 This deposition is being held at</p> <p>9 Schnader Harrison Segal, 140 Broadway,</p> <p>10 New York, New York, on October 6, 2009.</p> <p>11 The time is 10:15 a.m.</p> <p>12 My name is Peter Ledwith. I'm the</p> <p>13 videographer. The court reporter is Bryan</p> <p>14 Nilsen.</p> <p>15 Counsel, will you please introduce</p> <p>16 yourselves and who you represent.</p> <p>17 MR. HAYES: Steven Hayes, counsel</p> <p>18 for Richard Prince.</p> <p>19 MS. BART: Hollis Gonerka Bart,</p> <p>20 counsel for Larry Gagosian and Gagosian</p> <p>21 Gallery.</p> <p>22 MR. SHERMAN: John Sherman, counsel</p> <p>23 for Rizzoli International Publications.</p> <p>24 MR. BROOKS: Dan Brooks and Eric</p> <p>25 Boden for the plaintiff.</p>	<p style="text-align: center;">8</p> <p>1 Prince</p> <p>2 Q. -- is that correct?</p> <p>3 In 1949?</p> <p>4 A. Yes.</p> <p>5 Q. Did you attend school there?</p> <p>6 A. No, I didn't.</p> <p>7 Q. Where did you attend primary school?</p> <p>8 A. Outside of Boston, a town called</p> <p>9 Braintree, Massachusetts.</p> <p>10 Q. Was it a boarding school or did you</p> <p>11 live there?</p> <p>12 A. What age are you talking about?</p> <p>13 Q. Okay, let me back up.</p> <p>14 How long did you live in the Canal</p> <p>15 Zone?</p> <p>16 A. We moved when I was about six years</p> <p>17 old.</p> <p>18 Q. To Massachusetts?</p> <p>19 A. Yes.</p> <p>20 Q. Did the six years you spent in the</p> <p>21 Canal Zone affect your later work in any way?</p> <p>22 MR. HAYES: As an artist you're</p> <p>23 talking about?</p> <p>24 MR. BROOKS: Yes.</p> <p>25 A. Recently, yes.</p>



<p style="text-align: center;">9</p> <p>1 Prince</p> <p>2 Q. How so?</p> <p>3 A. I paid a visit to what is now called</p> <p>4 Panama about three years ago, three or four</p> <p>5 years ago. I'm not sure. And I started to</p> <p>6 think about -- I started to think about the</p> <p>7 place that I was born in.</p> <p>8 Q. We'll get to this later obviously,</p> <p>9 but did some of that thinking enter into your</p> <p>10 creation of the works of art that are in the</p> <p>11 Canal Zone book?</p> <p>12 A. Yes, in the form of a pitch or a</p> <p>13 screenplay that I wrote, and then I subsequently</p> <p>14 sort of made up a story that I felt that could</p> <p>15 be described with the title Canal Zone. I very</p> <p>16 much liked the idea that the name of the place</p> <p>17 that I was born had disappeared, that they no</p> <p>18 longer called it the Canal Zone, they call it</p> <p>19 Panama.</p> <p>20 Q. The pitch -- and again, we'll get to</p> <p>21 this later, but the pitch that you say you</p> <p>22 wrote, was it originally called Eden Rock?</p> <p>23 A. I think one of the working titles</p> <p>24 was Eden Rock, yes.</p> <p>25 Q. And that is a hotel in St. Barth's?</p>	<p style="text-align: center;">11</p> <p>1 Prince</p> <p>2 course or courses that you took at that college?</p> <p>3 A. Mostly it was figure studies. I</p> <p>4 studied the figure. I went to classes where</p> <p>5 they had models.</p> <p>6 Q. And what medium were you working in</p> <p>7 in these courses?</p> <p>8 A. Pencil, watercolor, collage, pen and</p> <p>9 ink.</p> <p>10 Q. How many years did you attend Nasson</p> <p>11 College?</p> <p>12 A. Four years.</p> <p>13 Q. Did you graduate?</p> <p>14 A. Yes.</p> <p>15 Q. With a degree in what?</p> <p>16 A. I guess liberal arts.</p> <p>17 Q. A BA?</p> <p>18 A. Yes.</p> <p>19 Q. After college did there come a time</p> <p>20 when you started working in New York City for</p> <p>21 Time Life Magazines?</p> <p>22 A. Yes.</p> <p>23 Q. When was that, approximately?</p> <p>24 A. 1975.</p> <p>25 Q. And when did you finish college?</p>
<p style="text-align: center;">10</p> <p>1 Prince</p> <p>2 A. Yes, I believe so, yes.</p> <p>3 MR. BROOKS: S-T, period, B-A-R-T-H,</p> <p>4 apostrophe S, that's how we'll spell it</p> <p>5 from now on.</p> <p>6 BY MR. BROOKS:</p> <p>7 Q. Do you have any education after high</p> <p>8 school?</p> <p>9 A. You mean college education?</p> <p>10 Q. Yes.</p> <p>11 A. Yes, I did attend college.</p> <p>12 Q. What was the name of the college?</p> <p>13 A. Nasson, N-A-S-S-O-N, College.</p> <p>14 Q. In Maine?</p> <p>15 A. Yes.</p> <p>16 Q. Was that a small liberal arts</p> <p>17 college?</p> <p>18 A. Yes.</p> <p>19 Q. Did you take any art courses at</p> <p>20 Nasson College?</p> <p>21 A. Yes.</p> <p>22 Q. Did you take any photography</p> <p>23 courses?</p> <p>24 A. No.</p> <p>25 Q. Briefly, can you describe the art</p>	<p style="text-align: center;">12</p> <p>1 Prince</p> <p>2 A. '71.</p> <p>3 Q. What was the nature of your job or</p> <p>4 jobs at Time Life?</p> <p>5 A. I worked for a number of jobs.</p> <p>6 First one was I worked in what they called the</p> <p>7 employee bookstore. That was my main job. And</p> <p>8 I worked -- I believe the title is called copy</p> <p>9 process, which was tearing up the various</p> <p>10 magazines that they published.</p> <p>11 In those days, pretty primitive,</p> <p>12 precomputer, we would tear up the magazine and</p> <p>13 hand the editorial -- they were called hard</p> <p>14 copies -- to the people who wrote those stories.</p> <p>15 Q. Tear sheets?</p> <p>16 A. Tear sheets.</p> <p>17 Q. And was this advertising or actual</p> <p>18 editorial -- non-advertising content?</p> <p>19 A. What they wanted, what we would put</p> <p>20 in these tubes and send, what they wanted was</p> <p>21 the editorial copy.</p> <p>22 Q. Articles?</p> <p>23 A. Articles, yes, for the various --</p> <p>24 I believe at the time they published seven</p> <p>25 magazines.</p>



<p>13</p> <p>1 Prince</p> <p>2 Q. While you were employed by Time Life</p> <p>3 did you begin a practice of rephotographing</p> <p>4 images --</p> <p>5 A. Yes.</p> <p>6 Q. -- that you encountered there?</p> <p>7 A. 1977 I made a breakthrough in terms</p> <p>8 of what I considered a breakthrough, and I</p> <p>9 started to rephotograph images that were</p> <p>10 essentially from magazines that Time Life</p> <p>11 published and also the New York Times magazine.</p> <p>12 Q. Were the images advertisements?</p> <p>13 A. Strictly advertisements, yes.</p> <p>14 Q. In 1977 did you rephotograph four</p> <p>15 photos from the New York Times magazine section?</p> <p>16 A. Yes.</p> <p>17 Q. What was the nature of those photos?</p> <p>18 A. They were images of living rooms,</p> <p>19 advertisements. I don't recall who was the</p> <p>20 advertiser, but -- and I believe they appeared</p> <p>21 sequentially once -- once a week for four weeks</p> <p>22 I believe.</p> <p>23 Q. And when you rephotographed those</p> <p>24 four images what, if anything, did you do with</p> <p>25 them? Did you exhibit them anywhere?</p>	<p>15</p> <p>1 Prince</p> <p>2 Q. Did you have a solo exhibition at</p> <p>3 the Ellen Sragow Gallery?</p> <p>4 A. Sragow, I believe.</p> <p>5 Q. Sragow?</p> <p>6 A. Yes.</p> <p>7 Q. When was that?</p> <p>8 A. It was a long time ago.</p> <p>9 MR. HAYES: If you recall. If you</p> <p>10 don't recall, say so.</p> <p>11 A. Well, '76 maybe.</p> <p>12 Q. And what was the content of the</p> <p>13 exhibition?</p> <p>14 A. I guess you could describe the --</p> <p>15 it's hard -- I believe they were images with</p> <p>16 text. They would refer to it at the time as</p> <p>17 narrative art.</p> <p>18 Q. Were the --</p> <p>19 A. They were stories that I had made up</p> <p>20 about various locations in which I had visited.</p> <p>21 Q. And what medium were the images?</p> <p>22 A. I think they were drawing. I think</p> <p>23 on one piece of paper it was drawing, and I</p> <p>24 believe the -- photographs -- text that was put</p> <p>25 out with a typewriter, and a lot of what was</p>
<p>14</p> <p>1 Prince</p> <p>2 A. No, I didn't.</p> <p>3 Q. Did some controversy arise from your</p> <p>4 rephotographing those four images?</p> <p>5 A. Not at the time, no.</p> <p>6 Q. At a later time?</p> <p>7 A. A controversy? I think -- no, I</p> <p>8 would more describe it as just people were very</p> <p>9 perplexed and didn't particularly know what they</p> <p>10 were looking at, because of the nature of the</p> <p>11 transformation. It was a real photograph that I</p> <p>12 was showing, not an image that I had torn out of</p> <p>13 the magazine. Which is essentially when I first</p> <p>14 tore it, it was a collage. I collaged it onto</p> <p>15 paper. That's the very first way I showed the</p> <p>16 images.</p> <p>17 But I decided -- I mean that was</p> <p>18 the breakthrough, was taking the apparatus, the</p> <p>19 camera, and making a real photograph.</p> <p>20 Q. A photograph of a photograph?</p> <p>21 A. Well, it was a photograph of -- no,</p> <p>22 it wasn't a photograph. It was a photograph of</p> <p>23 a page --</p> <p>24 Q. From the magazine?</p> <p>25 A. -- in the magazine.</p>	<p>16</p> <p>1 Prince</p> <p>2 then called white-out, which was a kind of</p> <p>3 liquid paint that you used to correct a typo.</p> <p>4 Q. At some point did you begin</p> <p>5 rephotographing ads for Marlboro cigarettes?</p> <p>6 A. I started that I believe in 1980 was</p> <p>7 the first one.</p> <p>8 Q. And this has been known as the</p> <p>9 Marlboro Cowboy photographs?</p> <p>10 A. I referred to them -- yes. I</p> <p>11 started titling them Untitled, parentheses,</p> <p>12 Cowboys.</p> <p>13 Q. And you say you started in 1980?</p> <p>14 A. Yes.</p> <p>15 Q. How long did you continue engaging</p> <p>16 in that practice?</p> <p>17 A. Until -- I believe the last ones</p> <p>18 were done in 1999.</p> <p>19 Q. How did you obtain the images of the</p> <p>20 Marlboro cowboys?</p> <p>21 A. They used to come out -- when I was</p> <p>22 working at Time Life they would come out -- we'd</p> <p>23 get the magazines on Monday, and they would</p> <p>24 appear in the magazine -- in the various</p> <p>25 magazines.</p>



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<p style="text-align: center;">25</p> <p>1 Prince</p> <p>2 MR. HAYES: Also, it seems to be</p> <p>3 attempting to turn him into some kind of</p> <p>4 expert, but primarily calls for a legal</p> <p>5 conclusion.</p> <p>6 A. I mean, you know, this type of</p> <p>7 language I -- you know, is not something that I</p> <p>8 feel comfortable commenting on.</p> <p>9 Q. Very well.</p> <p>10 Let me just back up.</p> <p>11 Have you ever been sued before this</p> <p>12 lawsuit in any court?</p> <p>13 A. No, I've never been sued.</p> <p>14 Q. Not by Garry Gross?</p> <p>15 A. No.</p> <p>16 Q. Have you ever been a party to any</p> <p>17 lawsuit or arbitration?</p> <p>18 A. Not that I believe, no.</p> <p>19 Q. Have you ever sued anyone?</p> <p>20 A. No, I've never sued anybody.</p> <p>21 Q. Have you ever had your deposition</p> <p>22 taken before today?</p> <p>23 A. No.</p> <p>24 Q. What, if anything, did you do to</p> <p>25 prepare for this deposition?</p>	<p style="text-align: center;">27</p> <p>1 Prince</p> <p>2 BY MR. BROOKS:</p> <p>3 Q. So just tell us what, if anything,</p> <p>4 you reviewed before coming here today to prepare</p> <p>5 for this deposition?</p> <p>6 A. I didn't really do anything. I</p> <p>7 just -- I wasn't even sure what I was supposed</p> <p>8 to do today.</p> <p>9 Q. Did you meet with any lawyers --</p> <p>10 without getting into what you said to them or</p> <p>11 they said to you, did you meet with any lawyers</p> <p>12 to prepare for this deposition?</p> <p>13 A. I met with -- yeah, I met with</p> <p>14 Steven.</p> <p>15 Q. Mr. Hayes?</p> <p>16 A. Yes.</p> <p>17 Q. Just the two of you?</p> <p>18 A. Yes.</p> <p>19 Q. No one else was present during the</p> <p>20 meeting?</p> <p>21 A. No.</p> <p>22 Q. Okay. Let me go back to this answer</p> <p>23 to paragraph 13 on page 3 of Exhibit 2. And</p> <p>24 perhaps we can break this down so it's more</p> <p>25 digestible.</p>
<p style="text-align: center;">26</p> <p>1 Prince</p> <p>2 A. I went over --</p> <p>3 MR. HAYES: I'll caution the witness</p> <p>4 not to talk about any conversations with</p> <p>5 counsel.</p> <p>6 THE WITNESS: I'm sorry?</p> <p>7 MR. HAYES: Don't talk about the</p> <p>8 substance of any conversations with</p> <p>9 counsel as protected by attorney/client</p> <p>10 privilege.</p> <p>11 A. I didn't really do much.</p> <p>12 Q. Tell us what you did, even if it was</p> <p>13 very little, without divulging conversations</p> <p>14 with your lawyer.</p> <p>15 A. I talked to my wife about it.</p> <p>16 Q. Did you review any documents?</p> <p>17 A. Documents -- what type of documents?</p> <p>18 Q. Well, for instance, books, your</p> <p>19 book, the Canal Zone book?</p> <p>20 MR. HAYES: Objection. Objection.</p> <p>21 I understand that that's not a proper</p> <p>22 question. That's work product.</p> <p>23 MR. BROOKS: Are you directing him</p> <p>24 not to answer?</p> <p>25 MR. HAYES: No, I'll let him answer.</p>	<p style="text-align: center;">28</p> <p>1 Prince</p> <p>2 The answer says that you were not</p> <p>3 specifically authorized to use Plaintiff's</p> <p>4 photographs, do you see that?</p> <p>5 A. I wasn't specifically authorized?</p> <p>6 Q. That's what this says.</p> <p>7 A. Okay.</p> <p>8 Q. Is that true?</p> <p>9 MR. HAYES: Object to the form</p> <p>10 of the question, calls for a legal</p> <p>11 conclusion.</p> <p>12 You can answer if you understand it.</p> <p>13 Q. You can answer.</p> <p>14 A. I still don't understand why I'm --</p> <p>15 I wasn't specifically authorized.</p> <p>16 Q. Did you ever ask Mr. Cariou, who is</p> <p>17 sitting here, the plaintiff, for permission to</p> <p>18 use his photographs from the Yes Rasta book?</p> <p>19 A. I didn't really use his photographs.</p> <p>20 Q. Okay. Did you make use of them in</p> <p>21 any way?</p> <p>22 A. I made use of them, yes.</p> <p>23 Q. Did you ask for his permission to</p> <p>24 make use of them?</p> <p>25 A. No.</p>

<p style="text-align: center;">29</p> <p>1 Prince</p> <p>2 Q. Did he specifically give you</p> <p>3 permission to use --</p> <p>4 A. No.</p> <p>5 Q. Did he generally give you permission</p> <p>6 to use the photographs?</p> <p>7 A. No.</p> <p>8 Q. Now, you say that the use you made</p> <p>9 of the portions of the photographs -- withdrawn.</p> <p>10 This answer says that the use you</p> <p>11 made of portions of the photographs in your</p> <p>12 artworks was a proper artistic practice. Do you</p> <p>13 agree with that?</p> <p>14 MR. HAYES: Again, object to the</p> <p>15 form of the question on the grounds it</p> <p>16 asks for a legal conclusion and attempts</p> <p>17 to make the witness an expert.</p> <p>18 But you can answer the question if</p> <p>19 you understand it.</p> <p>20 A. I did use, in fact, portions of</p> <p>21 photographs that appear in his book. Whether</p> <p>22 they were for proper artistic practice, that's</p> <p>23 a -- that's something I can't really -- I would</p> <p>24 have to define proper. And I'm not sure if</p> <p>25 there's any type of definition for proper</p>	<p style="text-align: center;">31</p> <p>1 Prince</p> <p>2 answer says here this was proper under -- it was</p> <p>3 appropriate under applicable law, do you have</p> <p>4 any idea what that refers to?</p> <p>5 MR. HAYES: Again, same objections,</p> <p>6 calls for an expert conclusion --</p> <p>7 A. No.</p> <p>8 MR. HAYES: -- and is not a proper</p> <p>9 question.</p> <p>10 MR. BROOKS: Right. But it's in his</p> <p>11 answer so I just want to see if he knows</p> <p>12 what that means.</p> <p>13 A. No.</p> <p>14 Q. You have no idea?</p> <p>15 A. No.</p> <p>16 Q. I'd like to discuss with you your</p> <p>17 artistic practice, quote/unquote, artistic</p> <p>18 practice, a term used in the answer, which I</p> <p>19 understand you've never seen the answer before.</p> <p>20 You are an artist, so I assume you</p> <p>21 have an artistic practice?</p> <p>22 A. I'd like to think so, yes.</p> <p>23 Q. Okay.</p> <p>24 MR. BROOKS: Let's mark as</p> <p>25 Plaintiff's Exhibit 3 two pages which have</p>
<p style="text-align: center;">30</p> <p>1 Prince</p> <p>2 artistic practice.</p> <p>3 But I did, in fact, use portions of</p> <p>4 images that appear in his books. Eventually,</p> <p>5 for paintings that I made into this -- they</p> <p>6 were sort of ingredient -- part of a recipe</p> <p>7 ingredients that were eventually made into this</p> <p>8 show that I titled Canal Zone.</p> <p>9 Q. Were his photographs the subject of</p> <p>10 your --</p> <p>11 A. No.</p> <p>12 Q. -- artworks?</p> <p>13 A. No.</p> <p>14 Q. The subject was some</p> <p>15 post-apocalyptic vision of what would happen</p> <p>16 after a nuclear war on a remote island?</p> <p>17 A. No, that was -- that's a subtext of</p> <p>18 the whole Canal Zone type of pitch. It first</p> <p>19 appeared when I was thinking about this project.</p> <p>20 Q. Okay. You know what, we'll get to</p> <p>21 that. I've got -- your lawyers produced all the</p> <p>22 documents. We'll go through them.</p> <p>23 A. Okay.</p> <p>24 Q. And I'm pretty sure what your answer</p> <p>25 is going to be, but when you say -- when the</p>	<p style="text-align: center;">32</p> <p>1 Prince</p> <p>2 been Bates stamped by us C57 and 58 when</p> <p>3 they were produced in discovery.</p> <p>4 MS. BART: Yesterday, correct?</p> <p>5 MR. BROOKS: No, about six months</p> <p>6 ago.</p> <p>7 MS. BART: The original production.</p> <p>8 MR. BROOKS: The initial disclosure</p> <p>9 I should say.</p> <p>10 (Plaintiff's Exhibit 3, two-page</p> <p>11 printout from website, was marked for</p> <p>12 identification, as of this date.)</p> <p>13 Q. Mr. Prince, you have a website?</p> <p>14 A. Yes, I do. Yes.</p> <p>15 Q. And is it www.RichardPrinceArt.com?</p> <p>16 A. Yes.</p> <p>17 Q. The first page of Exhibit 3 is a</p> <p>18 photograph of somebody. Is that you?</p> <p>19 A. Yes.</p> <p>20 Q. And on the table in the photograph</p> <p>21 there seems to be a book with some -- it looks</p> <p>22 like a cowboy on a horse?</p> <p>23 A. Yes.</p> <p>24 Q. Is that a book with some of these</p> <p>25 Marlboro cowboys we were talking about before?</p>



<p style="text-align: center;">37</p> <p>1 Prince</p> <p>2 wakefulness, unquote.</p> <p>3 (Clarification by reporter.)</p> <p>4 Q. Again, those were your words in</p> <p>5 1978?</p> <p>6 A. Yes.</p> <p>7 Q. When you would -- now, I'm asking</p> <p>8 about the first series of sentences. Okay?</p> <p>9 A. Mm-hmm.</p> <p>10 Q. Practicing without a license.</p> <p>11 When you would rephotograph would</p> <p>12 you actually use a camera?</p> <p>13 A. Yes.</p> <p>14 Q. So you would take an analog</p> <p>15 photograph of some image, is that right?</p> <p>16 A. I would take a slide. I was using</p> <p>17 slide film.</p> <p>18 Q. And then develop it?</p> <p>19 A. I would send it to a commercial lab</p> <p>20 and have it developed.</p> <p>21 Q. Now, in this digital age that we're</p> <p>22 in now are you able to appropriate images</p> <p>23 without actually using a camera?</p> <p>24 MR. HAYES: Objection to the form of</p> <p>25 the question. Without actually using a</p>	<p style="text-align: center;">39</p> <p>1 Prince</p> <p>2 the Canal Zone show isn't is a fact that you</p> <p>3 scanned some of Plaintiff's images directly onto</p> <p>4 the canvas?</p> <p>5 A. No.</p> <p>6 MR. HAYES: Objection.</p> <p>7 MS. BART: Objection, form.</p> <p>8 A. No.</p> <p>9 Q. Did somebody do that at your</p> <p>10 request?</p> <p>11 MS. BART: Same objection.</p> <p>12 A. What I would do is send -- after I</p> <p>13 tore the image out of the book --</p> <p>14 Q. You're talking about Plaintiff's</p> <p>15 book?</p> <p>16 A. Yes.</p> <p>17 I would send it off to a commercial</p> <p>18 lab. And I believe it's called inkjet process.</p> <p>19 Q. Right.</p> <p>20 A. Now, I don't know too much about it</p> <p>21 except that it -- you're able to reproduce in</p> <p>22 almost any scale onto different surfaces. The</p> <p>23 surface which I chose was canvas.</p> <p>24 Q. Right. And the name of the lab that</p> <p>25 you used?</p>
<p style="text-align: center;">38</p> <p>1 Prince</p> <p>2 camera?</p> <p>3 Q. Well, for instance, like if you see</p> <p>4 a photograph somewhere you can -- is it possible</p> <p>5 to scan it and enlarge it?</p> <p>6 A. I suppose so.</p> <p>7 Q. And do a high-definition copy of it</p> <p>8 without using a camera?</p> <p>9 MR. HAYES: If you know.</p> <p>10 A. I guess so.</p> <p>11 MS. BART: Excuse me, I'd like to</p> <p>12 hear the question back, please.</p> <p>13 (Record read.)</p> <p>14 MR. HAYES: I attempted to interpose</p> <p>15 an objection that the question calls for</p> <p>16 speculation, and I'll do that now.</p> <p>17 MR. BROOKS: Okay.</p> <p>18 BY MR. BROOKS:</p> <p>19 Q. But you can answer.</p> <p>20 A. I guess so.</p> <p>21 Q. Well, you guess so?</p> <p>22 MR. HAYES: Don't guess. If you</p> <p>23 know, say so. If you don't, say so.</p> <p>24 A. Yes, I believe you can. Yes.</p> <p>25 Q. In creating the works that were in</p>	<p style="text-align: center;">40</p> <p>1 Prince</p> <p>2 A. NancyScans.</p> <p>3 Q. Where are they located?</p> <p>4 A. Chatham, New York.</p> <p>5 Q. Chatham, New York.</p> <p>6 Near where you live Upstate?</p> <p>7 A. It's about an hour, yes.</p> <p>8 Q. And that's why -- we'll get to this</p> <p>9 again later --</p> <p>10 A. Okay.</p> <p>11 Q. -- but in the book, the Canal Zone</p> <p>12 book, it says the images -- some of your</p> <p>13 paintings rather, are inkjet and acrylic on</p> <p>14 canvas, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And other material?</p> <p>17 A. And other mediums, yeah.</p> <p>18 Q. Have you ever heard of an inkjet</p> <p>19 printer?</p> <p>20 MR. HAYES: Objection.</p> <p>21 Meaning other than in this context</p> <p>22 or?</p> <p>23 MR. BROOKS: No, just in general.</p> <p>24 A. I don't understand -- heard of an</p> <p>25 inkjet printer?</p>



<p>41</p> <p>1 Prince</p> <p>2 Q. Have you ever gone into like a</p> <p>3 Kinko's and asked them to make a copy for you?</p> <p>4 A. No.</p> <p>5 Q. Do you have a printer at home?</p> <p>6 A. No, I don't.</p> <p>7 Q. In your studio?</p> <p>8 A. No.</p> <p>9 Q. Do you have a computer?</p> <p>10 A. I have a computer.</p> <p>11 Q. Let me ask you a few questions about</p> <p>12 the 1978 -- I'm going to call it an essay.</p> <p>13 MR. HAYES: That's fine.</p> <p>14 MR. BROOKS: I understand it's not</p> <p>15 an essay.</p> <p>16 MR. HAYES: Yeah, he adopted the</p> <p>17 term. As long as we're clear it's an</p> <p>18 adopted term, that's fine. No problem.</p> <p>19 BY MR. BROOKS:</p> <p>20 Q. Was it ever published anywhere,</p> <p>21 Appropriation 1978, other than on your website?</p> <p>22 A. The Appropriation 1978?</p> <p>23 Q. Right.</p> <p>24 A. I think a form of it or another --</p> <p>25 maybe another edit of it was probably -- some of</p>	<p>43</p> <p>1 Prince</p> <p>2 interested in reflecting about what was going on</p> <p>3 at the time. I believe I was, what, twenty --</p> <p>4 MR. HAYES: Nine.</p> <p>5 A. Twenty-nine.</p> <p>6 I had only been in New York for four</p> <p>7 or five years. I was also very interested in</p> <p>8 the whole punk rock movement and felt very much</p> <p>9 a part of that attitude.</p> <p>10 And the idea of not liking your own</p> <p>11 work I thought was a kind of avant-garde,</p> <p>12 revolutionary, very poetic position to take at</p> <p>13 the time. Because most artists you meet have</p> <p>14 these large egos and love what they do. So I</p> <p>15 took the opposite point of view.</p> <p>16 Q. And why did you feel that it was,</p> <p>17 quote, more satisfying to appropriate?</p> <p>18 A. I felt that, you know, again, I like</p> <p>19 the idea of having a bit or a part or a share of</p> <p>20 a public image, much like the pop artists who I</p> <p>21 very much grew up with. And I was especially</p> <p>22 enamored of Andy Warhol at the time.</p> <p>23 And I felt that I wanted to</p> <p>24 contribute to something that already existed in</p> <p>25 the world.</p>
<p>42</p> <p>1 Prince</p> <p>2 the sentence structure was probably used.</p> <p>3 I know the general lowering of</p> <p>4 wakefulness was used in a book that I wrote</p> <p>5 called Why I Go to the Movies Alone.</p> <p>6 Q. That was the name of your book?</p> <p>7 A. Yes.</p> <p>8 Q. And do you know when that book came</p> <p>9 out?</p> <p>10 A. 1983.</p> <p>11 Q. With respect to the essay, it states</p> <p>12 appropriation has to do with the inability of</p> <p>13 the author slash artist to like his or her own</p> <p>14 work.</p> <p>15 Do you feel that you have an</p> <p>16 inability to like your own work?</p> <p>17 A. I think at the time I wrote</p> <p>18 it I was -- I was very interested in</p> <p>19 anti-expressionism. I was very interested in</p> <p>20 works or artworks that did not have to do with</p> <p>21 personal dreams. I was very interested in</p> <p>22 making things up and fiction and turning the</p> <p>23 fiction into something that you can believe in.</p> <p>24 Again, I have to say also that in</p> <p>25 this year, especially '77 to '78, I was also</p>	<p>44</p> <p>1 Prince</p> <p>2 Q. You're speaking in the past tense,</p> <p>3 fair enough, because I'm asking you about --</p> <p>4 A. Yeah, this is what I'm -- I'm trying</p> <p>5 to approximate what I was feeling thirty years</p> <p>6 ago.</p> <p>7 Q. Let's talk about now. Do you still</p> <p>8 find it more satisfying to appropriate than to</p> <p>9 create your own work?</p> <p>10 A. Yeah, I do. I feel that I like to</p> <p>11 get as much fact into my work and reduce the</p> <p>12 amount of speculation. I believe there's too</p> <p>13 much -- I like an artwork where that when you</p> <p>14 see something, like a cowboy or a girlfriend, I</p> <p>15 mean these are, in fact, true.</p> <p>16 Q. Or a nurse?</p> <p>17 A. Or a nurse, or a hood.</p> <p>18 Q. And you feel, if it's not yours --</p> <p>19 MR. HAYES: Let him finish.</p> <p>20 MR. BROOKS: I'm sorry.</p> <p>21 MR. HAYES: Have you finished your</p> <p>22 answer?</p> <p>23 THE WITNESS: I'm sorry. Yes.</p> <p>24 Q. And you feel if it's not yours it's</p> <p>25 more believable to the audience?</p>



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45	47
<p>1 Prince</p> <p>2 MR. HAYES: Objection,</p> <p>3 mischaracterizes what he said.</p> <p>4 But if you want -- you can respond</p> <p>5 to that if you want, but the statement --</p> <p>6 A. I feel it's totally mine.</p> <p>7 Q. Okay. But in the essay you said you</p> <p>8 find appropriating satisfying especially if you</p> <p>9 are attempting to produce work with a certain</p> <p>10 believability?</p> <p>11 A. Yes.</p> <p>12 Q. So there's something about</p> <p>13 appropriating images from other people that</p> <p>14 helps you make a work of art that's more</p> <p>15 believable, is that right?</p> <p>16 A. I guess you can say that, yes.</p> <p>17 Q. Do you still feel that way?</p> <p>18 A. Probably not as much as I did in</p> <p>19 1978.</p> <p>20 Q. But to some extent?</p> <p>21 A. I think you could say that.</p> <p>22 Q. Is it part of your message now that</p> <p>23 your artwork is more believable because it was</p> <p>24 taken from someone else?</p> <p>25 A. I don't have a -- I don't really</p>	<p>1 Prince</p> <p>2 Monday.</p> <p>3 MR. BROOKS: Well, I can't help</p> <p>4 that.</p> <p>5 (Plaintiff's Exhibit 4, interview,</p> <p>6 was marked for identification, as of this</p> <p>7 date.)</p> <p>8 Q. Mr. Prince, you've been handed</p> <p>9 what's been marked as Plaintiff's Exhibit 4.</p> <p>10 Do you recall being interviewed in</p> <p>11 ArtForum Magazine in 2003?</p> <p>12 A. Boy. I don't really recall being</p> <p>13 interviewed, no.</p> <p>14 Q. Do you know who Steve Lafreniere is?</p> <p>15 A. No, I don't.</p> <p>16 Q. Let's look at the second page of</p> <p>17 this exhibit. And there's a question up at the</p> <p>18 top where the interviewer is asking, I'd always</p> <p>19 assumed that you purposely made your early</p> <p>20 photos have an amateur look and that you'd done</p> <p>21 them quickly, but looking at them today would</p> <p>22 suggest otherwise. How worked on were pictures</p> <p>23 like Untitled, three women looking in the same</p> <p>24 direction, 1980.</p> <p>25 Before I read the answer, did you</p>
46	48
<p>1 Prince</p> <p>2 have a message.</p> <p>3 Q. Okay. Is appropriating images from</p> <p>4 other people, does that also make your job</p> <p>5 easier in creating a new image?</p> <p>6 A. No. Not really, no.</p> <p>7 Q. Does it make it harder?</p> <p>8 A. No, it's just something that --</p> <p>9 something that I do and I love to do, and I've</p> <p>10 always -- you know, I've been doing this for</p> <p>11 quite a while.</p> <p>12 Q. Right.</p> <p>13 When you began to engage in the</p> <p>14 practice of rephotographing the work of others</p> <p>15 did you consider yourself at that time to be a</p> <p>16 skilled photographer?</p> <p>17 A. No.</p> <p>18 MR. BROOKS: Let's mark as</p> <p>19 Plaintiff's Exhibit 4 an article, or</p> <p>20 actually an interview with Bates stamp</p> <p>21 pages C226 through 228.</p> <p>22 And this was I believe produced in</p> <p>23 response to your discovery requests on</p> <p>24 Friday.</p> <p>25 MS. BART: We got them actually on</p>	<p>1 Prince</p> <p>2 have a work Untitled with three women looking in</p> <p>3 the same direction in 1980, if you recall?</p> <p>4 A. Yes.</p> <p>5 Q. And here's what appears to be your</p> <p>6 answer. RP, I had limited technical skills</p> <p>7 regarding the camera. Actually, I had no</p> <p>8 skills. I played the camera. I used a cheap</p> <p>9 commercial lab to blow up the pictures. I made</p> <p>10 editions of two. I never went into a darkroom.</p> <p>11 And yes, I really worked hard on Women, capital</p> <p>12 W, period. I mean that piece still looks like</p> <p>13 it was purposely made.</p> <p>14 Do you recall making this statement?</p> <p>15 A. Yes.</p> <p>16 Q. And was it a true statement?</p> <p>17 A. Yes, it was. It's absolutely true.</p> <p>18 Q. The next question says, So you sort</p> <p>19 of fell into photography, and the answer is, In</p> <p>20 the early '80s I didn't have the subject matter</p> <p>21 for painting, I didn't have the, quote, jokes,</p> <p>22 initial cap J, unquote, until 1986. What I did</p> <p>23 have was magazines. I was working at Time Life</p> <p>24 and was surrounded by magazines. I wanted to</p> <p>25 present the images I saw in these magazines as</p>



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<p style="text-align: center;">49</p> <p>1 Prince</p> <p>2 naturally as when they first appeared. Making a</p> <p>3 photograph of them seemed the best way to do it.</p> <p>4 I didn't exactly, quote, fall, unquote, as much</p> <p>5 as steal, period.</p> <p>6 Did you make that statement?</p> <p>7 A. Yes, I did.</p> <p>8 Q. Was that a true statement?</p> <p>9 A. Yes, it is.</p> <p>10 Q. When you said you had no skills,</p> <p>11 I mean what did you mean?</p> <p>12 A. I didn't have any skills. I had</p> <p>13 never really -- I liked the idea of not knowing</p> <p>14 how to use a mechanical apparatus at the time.</p> <p>15 I didn't know anything about the medium.</p> <p>16 Q. Right.</p> <p>17 Do you remember saying in a</p> <p>18 subsequent interview that you destroyed</p> <p>19 photography?</p> <p>20 A. Yes, I shot the sheriff or something</p> <p>21 like that. Yeah, I did.</p> <p>22 Q. What did you mean by that?</p> <p>23 A. I changed it. I revolutionized it.</p> <p>24 Q. How?</p> <p>25 A. I changed it completely.</p>	<p style="text-align: center;">51</p> <p>1 Prince</p> <p>2 And the part was this idea of the artist as a</p> <p>3 kind of cliché. And I was very much an</p> <p>4 outsider. And I was interested in playing a</p> <p>5 role. Again, fictionalizing myself.</p> <p>6 Q. As an outlaw?</p> <p>7 A. Yes.</p> <p>8 Q. Kind of like Robin Hood stealing</p> <p>9 from Philip Morris?</p> <p>10 MR. HAYES: Objection to the form.</p> <p>11 A. No.</p> <p>12 MR. HAYES: Objection.</p> <p>13 A. No. I was making things up.</p> <p>14 Q. Right.</p> <p>15 A. I was extremely -- to tell you the</p> <p>16 truth, I was extremely conservative, on the</p> <p>17 other hand, in terms of my artistic attitude.</p> <p>18 And I knew that in order to maybe</p> <p>19 discover something new I had to change a bit and</p> <p>20 take on another persona. And I felt that by</p> <p>21 playing, quote, as I said in the interview, the</p> <p>22 camera, just like a punk rock guitarist who</p> <p>23 picks up a guitar, seven days later he's playing</p> <p>24 on stage. He doesn't know how to play the</p> <p>25 guitar, but it's his inability which shines</p>
<p style="text-align: center;">50</p> <p>1 Prince</p> <p>2 Q. How?</p> <p>3 A. Well, rephotography actually you</p> <p>4 could -- thirty years later people download.</p> <p>5 You could actually substitute the word download</p> <p>6 for rephotography. I mean I did it.</p> <p>7 Q. Download an image on your computer?</p> <p>8 A. It's the same thing really.</p> <p>9 Q. And scan it --</p> <p>10 A. I mean I'm talking poetically here,</p> <p>11 philosophically. Again, it's all an</p> <p>12 experimentation. But I did destroy and change</p> <p>13 the whole -- the whole medium actually.</p> <p>14 And that's what I was trying to</p> <p>15 do at the time was revolutionize an artistic</p> <p>16 practice that up to that time was pretty boring,</p> <p>17 really.</p> <p>18 Q. In the essays we looked at in the</p> <p>19 previous exhibit, Exhibit 3.</p> <p>20 A. Mm-hmm.</p> <p>21 Q. 1977 and 1978 essays, and in this</p> <p>22 interview in 2003, were you trying to depict</p> <p>23 yourself as an outlaw or a rebel?</p> <p>24 MR. HAYES: Object to the form.</p> <p>25 A. I think I was playing a part, yes.</p>	<p style="text-align: center;">52</p> <p>1 Prince</p> <p>2 through, which is really exciting.</p> <p>3 And the fact that he's not a</p> <p>4 virtuoso -- it's the very limitations I think</p> <p>5 that make -- can actually make great art. And</p> <p>6 that's basically what all this, these two essays</p> <p>7 and these two quotes in this particular</p> <p>8 interview is about.</p> <p>9 MR. BROOKS: Let's mark as</p> <p>10 Plaintiff's Exhibit 5 two pages Bates</p> <p>11 stamped C229 and 230.</p> <p>12 It's a portion of -- or it is an</p> <p>13 interview in French.</p> <p>14 MS. BART: Do you have an English</p> <p>15 translation for the witness and counsel?</p> <p>16 MR. BROOKS: Later. That will be</p> <p>17 Exhibit 6. I'm on Exhibit 5.</p> <p>18 MS. BART: Well, I'd like to have</p> <p>19 a copy of the translation so that I can</p> <p>20 determine whether or not I need to object</p> <p>21 to any of your questions with this</p> <p>22 exhibit.</p> <p>23 MR. BROOKS: Okay. All right.</p> <p>24 Fine.</p> <p>25 MS. BART: Excuse me, I'd like to</p>



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<p style="text-align: center;">85</p> <p>1 Prince</p> <p>2 A. Yes.</p> <p>3 Q. -- essay or story?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know where those cartoons</p> <p>6 came from?</p> <p>7 A. They came from my collecting cartoon</p> <p>8 books.</p> <p>9 Q. But then there were little captions,</p> <p>10 were those original into the cartoons?</p> <p>11 A. I don't recall if they were original</p> <p>12 or not.</p> <p>13 Q. For instance, How do I know you</p> <p>14 won't kiss and tell?</p> <p>15 A. Right. I don't know if they were --</p> <p>16 I might have made up my own captions, I often</p> <p>17 do, to mismatch. And I believe those cartoons</p> <p>18 were collaged onto palm trees, which I -- it was</p> <p>19 part of my contribution to the cartoon to make</p> <p>20 it different and suggested again the jungles of</p> <p>21 Panama.</p> <p>22 MR. BROOKS: Okay. Just so my</p> <p>23 outline doesn't get all screwed up, I'm</p> <p>24 going to mark this as Exhibit 42.</p> <p>25 MR. HAYES: 42?</p>	<p style="text-align: center;">87</p> <p>1 Prince</p> <p>2 that a reference to his story?</p> <p>3 MR. HAYES: If you know.</p> <p>4 Q. If you know.</p> <p>5 A. No, I don't know.</p> <p>6 Q. Everything is if you know.</p> <p>7 A. No, I don't know.</p> <p>8 Q. And it says all artworks copyright</p> <p>9 2008 Richard Prince, insert images copyright</p> <p>10 2008 Richard Prince. Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Have you ever seen that before?</p> <p>13 A. If I did I never really paid</p> <p>14 attention to it.</p> <p>15 Q. And then at the bottom of the page</p> <p>16 it says all rights reserved, no part of this</p> <p>17 publication may be used or reproduced in any</p> <p>18 manner whatsoever without prior written</p> <p>19 permission from the copyright holders.</p> <p>20 Do you see that language?</p> <p>21 A. Yes.</p> <p>22 Q. So you created some artworks that</p> <p>23 are depicted in this book Exhibit 42, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And you spent some time and effort</p>
<p style="text-align: center;">86</p> <p>1 Prince</p> <p>2 MR. BROOKS: Out of order.</p> <p>3 So this will be the exhibit I guess.</p> <p>4 (Plaintiff's Exhibit 42, Canal Zone</p> <p>5 book, was marked for identification, as of</p> <p>6 this date.)</p> <p>7 MR. BROOKS: These pages are Bates</p> <p>8 stamped -- Mr. Hayes, could you help him</p> <p>9 find the page Bates stamped 213? It's in</p> <p>10 the very back.</p> <p>11 MR. HAYES: You can find it faster</p> <p>12 than me, but sure.</p> <p>13 There we go.</p> <p>14 BY MR. BROOKS:</p> <p>15 Q. Mr. Prince, this is the book I was</p> <p>16 referring to before.</p> <p>17 A. Mm-hmm.</p> <p>18 Q. And it was published in connection</p> <p>19 with an exhibition at the Gagosian Gallery in</p> <p>20 November-December 2008, is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. It says -- in the third paragraph</p> <p>23 I guess it says publication copyright 2008,</p> <p>24 Gagosian Gallery, Ding Dong the Witch is Dead,</p> <p>25 copyright 2008, James Frey, and that's -- is</p>	<p style="text-align: center;">88</p> <p>1 Prince</p> <p>2 doing it?</p> <p>3 A. Yes.</p> <p>4 Q. And you spent some money I assume,</p> <p>5 right?</p> <p>6 A. Yes.</p> <p>7 Q. And you don't mind if somebody just</p> <p>8 copies some of these images and sells them?</p> <p>9 A. No, I don't.</p> <p>10 If they can make a contribution --</p> <p>11 Q. You answered.</p> <p>12 A. -- I'm all for it.</p> <p>13 MR. BROOKS: Let's mark as</p> <p>14 Plaintiff's Exhibit 8 an interview of</p> <p>15 Mr. Prince. And those pages have been</p> <p>16 Bates stamped in our initial disclosure</p> <p>17 C59 to 64.</p> <p>18 This is going to get very congested</p> <p>19 there. Maybe you might just want to put</p> <p>20 that -- because I'm not going to come back</p> <p>21 to that book for a while, maybe just --</p> <p>22 MR. HAYES: Sure.</p> <p>23 MR. BROOKS: Plaintiff's Exhibit 8.</p> <p>24 (Plaintiff's Exhibit 8, interview,</p> <p>25 was marked for identification, as of this</p>

<p style="text-align: center;">117</p> <p>1 Prince</p> <p>2 MR. HAYES: Object to the form.</p> <p>3 Q. Some market value?</p> <p>4 A. I never get involved in the market</p> <p>5 value. I have no interest in the market.</p> <p>6 Q. When Barbara Gladstone sold some of</p> <p>7 your copies of that original or some of the</p> <p>8 originals from the edition, you received money,</p> <p>9 right?</p> <p>10 A. From the original which, this or --</p> <p>11 Q. Spiritual America Four?</p> <p>12 A. Four?</p> <p>13 Q. Yes.</p> <p>14 A. Yes.</p> <p>15 Q. Okay. So it has some value?</p> <p>16 Somebody bought it and you got some</p> <p>17 of the money, right?</p> <p>18 A. If that's what you mean by value,</p> <p>19 yes. I received money from the sale of</p> <p>20 Spiritual America Four, yes.</p> <p>21 Q. Any recollection of about how much</p> <p>22 you received for the ones that Barbara Gladstone</p> <p>23 sold?</p> <p>24 A. No, I really don't know.</p> <p>25 Q. Do you know if Spiritual America</p>	<p style="text-align: center;">119</p> <p>1 Prince</p> <p>2 A. They already have.</p> <p>3 Q. You can scan it --</p> <p>4 A. I saw it on someone's screen --</p> <p>5 MS. BART: Objection, form.</p> <p>6 (Multiple speakers talking at once.)</p> <p>7 (Interruption by reporter.)</p> <p>8 (Discussion off the record.)</p> <p>9 (Record read.)</p> <p>10 MR. HAYES: Can I make a suggestion?</p> <p>11 Withdraw both questions, restate the</p> <p>12 first question.</p> <p>13 BY MR. BROOKS:</p> <p>14 Q. You wouldn't mind if somebody sold</p> <p>15 Spiritual America Four, somebody else?</p> <p>16 A. No.</p> <p>17 Q. Without your permission?</p> <p>18 A. They don't need my permission.</p> <p>19 Q. And you're saying it has been done?</p> <p>20 A. I don't know whether they've been</p> <p>21 able to sell it. I haven't been able to sell</p> <p>22 mine. Whether they've sold theirs, I don't</p> <p>23 know.</p> <p>24 Q. Well, you sold some of yours, right?</p> <p>25 A. I sold some of mine, yes.</p>
<p style="text-align: center;">118</p> <p>1 Prince</p> <p>2 Four is copyrighted?</p> <p>3 A. No, I don't know.</p> <p>4 Q. Do you share the proceeds when it</p> <p>5 was sold with Mr. D'Orazio?</p> <p>6 A. No. No, I don't.</p> <p>7 Q. You keep the proceeds?</p> <p>8 A. When there's a sale of this image,</p> <p>9 yes, it's between myself and the dealer who</p> <p>10 sells it.</p> <p>11 He was -- I gave him a print.</p> <p>12 I also gave Brooke Shields a print.</p> <p>13 Q. She must have been appreciative?</p> <p>14 A. I'm a, you know, agreeable guy.</p> <p>15 Q. So getting back to in Exhibit 6</p> <p>16 where you said, However, it would not bother me</p> <p>17 in the slightest -- excuse me -- for someone to</p> <p>18 appropriate my work.</p> <p>19 A. Yes.</p> <p>20 Q. Would that extend to Spiritual</p> <p>21 America Four?</p> <p>22 A. Yeah. I mean I don't -- I don't try</p> <p>23 to control those kinds of things.</p> <p>24 Q. But I mean just you wouldn't mind if</p> <p>25 somebody did exactly what you did --</p>	<p style="text-align: center;">120</p> <p>1 Prince</p> <p>2 Q. And how do you know somebody else is</p> <p>3 trying to sell Spiritual America Four?</p> <p>4 A. I've seen it. That's the thing</p> <p>5 about technology, it's what's new, it's what one</p> <p>6 has to adjust to. I've seen it on the web.</p> <p>7 Q. And that's fine with you?</p> <p>8 A. It's fine with me, yeah. I have no</p> <p>9 control over it. I mean it's their piece, not</p> <p>10 mine.</p> <p>11 Q. It's their piece?</p> <p>12 A. They're putting their name on it.</p> <p>13 Q. Who is they?</p> <p>14 A. I don't recall. I don't know who</p> <p>15 the person is.</p> <p>16 Q. Okay. So your view is if you create</p> <p>17 a work of art -- do you consider this a work of</p> <p>18 art?</p> <p>19 A. Yes, I do.</p> <p>20 Q. If you create a work of art anyone</p> <p>21 else who wants to is free to copy it and sell</p> <p>22 it?</p> <p>23 A. That's the optional or the operative</p> <p>24 word you just said. Free.</p> <p>25 Q. Right.</p>

<p style="text-align: center;">121</p> <p>1 Prince</p> <p>2 A. And art is about freedom. It's not</p> <p>3 about being restricted. If I was restricted</p> <p>4 then I couldn't transform these images.</p> <p>5 Q. So but as far as you're concerned,</p> <p>6 somebody else can just copy Spiritual America</p> <p>7 Four, make no changes to it, and sell it, and</p> <p>8 that's fine with you?</p> <p>9 A. Yes, that's fine with me.</p> <p>10 Q. That's part of your artistic</p> <p>11 philosophy?</p> <p>12 A. I believe that, yes.</p> <p>13 Q. Does it matter if the person copying</p> <p>14 your work is known as an appropriation artist or</p> <p>15 does it not matter, can anyone do it, as far as</p> <p>16 you're concerned?</p> <p>17 A. There have been people who are known</p> <p>18 as appropriation artists who have done what I've</p> <p>19 done because of what I did.</p> <p>20 Q. Right. But let me ask you this.</p> <p>21 Do you feel that because you are known for</p> <p>22 appropriating the work of others your reputation</p> <p>23 itself entitles you to engage in that artistic</p> <p>24 practice?</p> <p>25 MS. BART: Objection to form.</p>	<p style="text-align: center;">123</p> <p>1 Prince</p> <p>2 Q. I know. It was badly worded.</p> <p>3 You said before, you think people</p> <p>4 are free to take the work of others, copy it,</p> <p>5 and sell it, right?</p> <p>6 MR. HAYES: Objection.</p> <p>7 A. I believe artists --</p> <p>8 Q. Artists?</p> <p>9 A. -- should be as free as possible,</p> <p>10 yes, in their studios.</p> <p>11 Q. And does it matter if those artists</p> <p>12 are known for the practice of appropriating or</p> <p>13 not?</p> <p>14 MR. HAYES: Objection, form.</p> <p>15 A. It could be an art student. I would</p> <p>16 encourage it.</p> <p>17 Q. Okay. I understand.</p> <p>18 MR. BROOKS: Let's mark as</p> <p>19 Plaintiff's Exhibit 10 a two-page article</p> <p>20 in something called the Copyright</p> <p>21 Litigation Blog, Bates stamps C55 and 56.</p> <p>22 (Plaintiff's Exhibit 10, Copyright</p> <p>23 Litigation Blog, was marked for</p> <p>24 identification, as of this date.)</p> <p>25 Q. Mr. Prince, the person who wrote</p>
<p style="text-align: center;">122</p> <p>1 Prince</p> <p>2 MR. HAYES: Objection.</p> <p>3 A. Reputation is a tricky word.</p> <p>4 Q. Well, you have a reputation for</p> <p>5 borrowing, appropriating things from other</p> <p>6 people, right?</p> <p>7 MS. BART: Objection, form.</p> <p>8 MR. HAYES: Objection also.</p> <p>9 A. My intentions were never to make</p> <p>10 myself a reputation. It was always -- my</p> <p>11 intentions were always to make great art.</p> <p>12 Q. Okay. But are you aware that you</p> <p>13 are known as somebody -- prominently known as</p> <p>14 somebody who appropriates work of others?</p> <p>15 MR. HAYES: Objection.</p> <p>16 MS. BART: Same.</p> <p>17 A. I am told that, yes. I don't</p> <p>18 necessarily acknowledge it.</p> <p>19 Q. And whether you are or not, you</p> <p>20 don't feel that your reputation for that</p> <p>21 practice has anything to do with your right to</p> <p>22 do it, your freedom to do it, right?</p> <p>23 MR. HAYES: Objection.</p> <p>24 MS. BART: Objection to form.</p> <p>25 A. I don't understand the question.</p>	<p style="text-align: center;">124</p> <p>1 Prince</p> <p>2 this blog, again, states that the occasion is</p> <p>3 your one-man show at the Guggenheim, do you see</p> <p>4 that, entitled Spiritual America?</p> <p>5 A. Yes. You're referring to this man</p> <p>6 Ray Dowd?</p> <p>7 Q. Yes, he's an attorney I believe.</p> <p>8 You don't know him I take it?</p> <p>9 A. No. Is he an art critic or -- you</p> <p>10 say he's an attorney?</p> <p>11 Q. Yes. I think he does copyright law.</p> <p>12 I don't really know.</p> <p>13 A. And this is a blog?</p> <p>14 Q. It looks like -- it's the Copyright</p> <p>15 Litigation Blog. And he also has written a</p> <p>16 textbook on that.</p> <p>17 MR. HAYES: That's what the title of</p> <p>18 the document is --</p> <p>19 Q. Anyway, I'm not going to ask you</p> <p>20 about any legal questions.</p> <p>21 A. No, I just want to make sure I know</p> <p>22 what I'm looking at.</p> <p>23 Q. I think he's an attorney and he's</p> <p>24 written -- it tells you in the lower right-hand</p> <p>25 corner the name of the book he wrote.</p>



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<p style="text-align: center;">125</p> <p>1 Prince</p> <p>2 A. Okay.</p> <p>3 Q. On the second page of this -- and</p> <p>4 take your time, if you want to read the first</p> <p>5 page --</p> <p>6 A. No, I was just going over this</p> <p>7 eight-track photograph little -- I wonder where</p> <p>8 he got that. That's kind of cool.</p> <p>9 Anyway -- I'm sorry.</p> <p>10 Q. He didn't get that from you?</p> <p>11 A. Yeah, he got that from me. That's</p> <p>12 very early.</p> <p>13 Q. Well, now, for the record, we better</p> <p>14 have you explain what you're referring to about</p> <p>15 the Eight-Track. I wasn't going to ask you, but</p> <p>16 since you mentioned it --</p> <p>17 A. Oh. No, no --</p> <p>18 Q. -- you should explain what you're</p> <p>19 talking about.</p> <p>20 A. The Eight-Track photograph, I think</p> <p>21 I was -- again, I was talking about -- I think I</p> <p>22 was talking about hip-hop, and sampling was</p> <p>23 coming in at the time.</p> <p>24 Pirating was the term that was being</p> <p>25 used by rappers in the late '70s. This is very</p>	<p style="text-align: center;">127</p> <p>1 Prince</p> <p>2 And then it refers to you.</p> <p>3 His -- that means you. His</p> <p>4 appropriation may foreshadow the copyright</p> <p>5 battles of the future and a weakening of the</p> <p>6 visual artist's copyright.</p> <p>7 With reference to the first sentence</p> <p>8 that I read, do you agree with that?</p> <p>9 MR. HAYES: Objection.</p> <p>10 MS. BART: I'm going to object to</p> <p>11 form, especially using this blog as</p> <p>12 evidence.</p> <p>13 MR. BROOKS: Okay.</p> <p>14 MR. HAYES: It also calls for a</p> <p>15 legal conclusion, and I join in her</p> <p>16 objections.</p> <p>17 MR. BROOKS: Well, the first</p> <p>18 sentence has nothing to do with any legal</p> <p>19 conclusions.</p> <p>20 I asked him if he agrees that</p> <p>21 appropriating is becoming -- has become a</p> <p>22 widespread phenomenon, thanks to advances</p> <p>23 in technology.</p> <p>24 A. I don't believe I'm -- have the</p> <p>25 knowledge to answer that question properly.</p>
<p style="text-align: center;">126</p> <p>1 Prince</p> <p>2 early, when that practice of sampling -- and I</p> <p>3 was always trying to hook my art up with musical</p> <p>4 terms. That's all.</p> <p>5 So the Eight-Track photograph was</p> <p>6 eight different ways in which you could make a</p> <p>7 photograph.</p> <p>8 Q. So it's an analogy, is that what --</p> <p>9 A. I think it was just a description.</p> <p>10 Q. But you're analogizing your</p> <p>11 practices in the visual arts with what --</p> <p>12 A. I just -- I probably was just trying</p> <p>13 to talk about what was possible to do with the</p> <p>14 mechanism, the apparatus. It's kind of esoteric</p> <p>15 mumbo jumbo to tell you the truth.</p> <p>16 Q. Got it.</p> <p>17 On the second page there's a</p> <p>18 statement --</p> <p>19 A. Sorry.</p> <p>20 Q. There's a statement which says --</p> <p>21 I'll read it -- as we move into a world where</p> <p>22 digital photography and sophisticated</p> <p>23 consumer-level photo-retouching software is</p> <p>24 available, appropriating and manipulating images</p> <p>25 has become a widespread phenomenon.</p>	<p style="text-align: center;">128</p> <p>1 Prince</p> <p>2 Q. Fine, okay.</p> <p>3 A. I don't know whether it's become</p> <p>4 widespread.</p> <p>5 Q. How about the second sentence, do</p> <p>6 you agree that your artistic practices are</p> <p>7 weakening visual artists' copyright?</p> <p>8 MR. HAYES: Objection. That calls</p> <p>9 for a legal conclusion.</p> <p>10 A. Again, I would have no idea.</p> <p>11 Q. Now, when you had the retrospective</p> <p>12 at the Guggenheim -- and we all know what the</p> <p>13 Guggenheim looks like, it spirals up from the</p> <p>14 bottom to the top -- was the entire museum</p> <p>15 dedicated to exhibiting your works, or was it</p> <p>16 just a part of the museum?</p> <p>17 When you had your --</p> <p>18 A. The majority of the museum.</p> <p>19 Q. Starting at the bottom or the middle</p> <p>20 or where?</p> <p>21 A. Starting in what they call the</p> <p>22 rotunda.</p> <p>23 Q. When you walk in?</p> <p>24 A. Yes.</p> <p>25 Q. But it didn't go all the way up to</p>



<p style="text-align: center;">149</p> <p>1 Prince</p> <p>2 A. November 8th, yes.</p> <p>3 Q. And was this interview in -- do you</p> <p>4 know if the occasion for this interview was that</p> <p>5 the show was about to open, if you remember?</p> <p>6 A. I believe -- this doesn't make any</p> <p>7 sense.</p> <p>8 Q. Because?</p> <p>9 A. It says here -- this interview I</p> <p>10 believe was published at the Patrick Seguin</p> <p>11 Gallery.</p> <p>12 Oh, wait a minute. I did this</p> <p>13 interview for the Patrick Seguin Gallery that</p> <p>14 opened in November 29th with Le Figaro.</p> <p>15 Q. Of 2008?</p> <p>16 A. With -- I believe with this person</p> <p>17 from Le Figaro.</p> <p>18 Q. Valerie Duponchelle?</p> <p>19 A. No, with Patrick Seguin.</p> <p>20 Q. It just says -- I'm just telling</p> <p>21 you what it says in English -- interviewed by</p> <p>22 Valerie Duponchelle. That's not your</p> <p>23 recollection?</p> <p>24 A. I don't remember who I was</p> <p>25 interviewed by. But I believe this interview</p>	<p style="text-align: center;">151</p> <p>1 Prince</p> <p>2 found a black-and-white book on Rastafarians</p> <p>3 when I was on vacation in St. Barth's. I</p> <p>4 started drawing directly in the book like I had</p> <p>5 done before in a book of De Kooning's work. For</p> <p>6 two or three years I continued to be inspired by</p> <p>7 three Rastafarians -- I'm sorry, I continued to</p> <p>8 be inspired by these Rastafarians. I drew faces</p> <p>9 on their faces using the shades of the book, the</p> <p>10 different skin colors, the wild hair styles, all</p> <p>11 dreadlocked, their poses and their looks. I was</p> <p>12 listening to Rasta music at the time, one of my</p> <p>13 son's tapes.</p> <p>14 Was that a Bob Marley tape?</p> <p>15 A. No, it wasn't. It was a group</p> <p>16 called Radiodread. One word.</p> <p>17 Q. Now, the black-and-white book on</p> <p>18 Rastafarians that you found, was that this</p> <p>19 Yes Rasta book by Patrick Cariou?</p> <p>20 A. Yes.</p> <p>21 Q. And you said you started drawing in</p> <p>22 the book. You actually -- actually in the book,</p> <p>23 you didn't copy, you just write in the book, you</p> <p>24 were drawing things?</p> <p>25 A. Yes.</p>
<p style="text-align: center;">150</p> <p>1 Prince</p> <p>2 was for the occasion of a show.</p> <p>3 Q. A show of yours?</p> <p>4 A. Of mine at the Patrick Seguin</p> <p>5 Gallery.</p> <p>6 Q. A show that has nothing to do with</p> <p>7 the Canal Zone?</p> <p>8 A. It had nothing to do with the Canal</p> <p>9 Zone.</p> <p>10 Q. All right. Well, for whatever</p> <p>11 reason, they asked you some questions about the</p> <p>12 Canal Zone --</p> <p>13 A. Yes.</p> <p>14 Q. -- probably because of the temporal</p> <p>15 proximity. So I would like to have you look at</p> <p>16 the second question.</p> <p>17 Your series will be up at a time</p> <p>18 when perhaps Barack Obama will be president.</p> <p>19 It could become iconic if it coincides with a</p> <p>20 pivotal moment in American history. And --</p> <p>21 (Interruption.)</p> <p>22 (Record read.)</p> <p>23 Q. So then the answer apparently was,</p> <p>24 That's possible. It is strange for a white man</p> <p>25 like myself to start painting black people. I</p>	<p style="text-align: center;">152</p> <p>1 Prince</p> <p>2 Q. Which you had done with some</p> <p>3 De Kooning works before?</p> <p>4 MS. BART: Objection, form.</p> <p>5 Q. Go ahead.</p> <p>6 A. I had done the same thing to a</p> <p>7 De Kooning book.</p> <p>8 Q. Right. Now, you said -- I'm reading</p> <p>9 what you said -- for two or three years I</p> <p>10 continued to be inspired by these Rastafarians.</p> <p>11 So, given --</p> <p>12 A. That's the translation. This --</p> <p>13 Q. Okay.</p> <p>14 A. Can I just say that this is --</p> <p>15 Q. Yes.</p> <p>16 A. I've read this interview.</p> <p>17 Q. Yes. In French?</p> <p>18 A. Because it just came out in a book.</p> <p>19 Q. Yes.</p> <p>20 A. It's one of the worst translations</p> <p>21 I've ever read. Anyway, I'm just -- I just</p> <p>22 would like to get that on the record.</p> <p>23 Q. Okay. But this translation was done</p> <p>24 for my law firm, so you certainly haven't read</p> <p>25 this translation. You may have read another bad</p>



153	155
1 Prince	1 Prince
2 translation, but you haven't read this one.	2 wasn't continuous, but did you start writing in
3 A. Oh. Well --	3 the book right then or did you --
4 Q. This was done for us recently.	4 A. I believe I did probably the next
5 A. Okay. All right.	5 day.
6 Q. But -- fine. If it's incorrect, I	6 Q. And then at some point you put it
7 would like to know.	7 aside?
8 So is it correct that you were	8 A. I started writing first. I used it
9 drawing in the Yes Rasta book?	9 as a notebook. I started making notes because
10 A. Yes.	10 of my Canal Zone idea.
11 Q. And is it correct that given that	11 Q. For the pitch?
12 this is 2008, this interview, that this drawing	12 A. Because I was -- yeah, I was writing
13 in the book went on for two or three years?	13 about the pitch because of -- yeah, there was
14 A. The drawing in the book -- no, I	14 some blank pages.
15 believe it started when I bought the book.	15 Q. In the book?
16 Q. In 2008?	16 A. In the book.
17 A. When I was on vacation. So 2005.	17 Q. You wrote things like CIA, Jack
18 I bought the book and I started -- I was on	18 Ruby?
19 vacation, and I started to make drawings in the	19 A. Yes.
20 book.	20 Q. Lee Harvey Oswald, CIA?
21 Q. Okay.	21 A. Yes.
22 A. And --	22 Q. Kennedy?
23 Q. You were on vacation?	23 A. Right.
24 MR. HAYES: Hold on. He hasn't	24 Q. Something about the Kennedy
25 finished his answer.	25 assassination apparently?
154	156
1 Prince	1 Prince
2 A. Because you had asked me if I had	2 A. I was thinking out loud, yes.
3 been doing it for two or three years. I did it	3 Q. Okay, good.
4 for two weeks out of every year for two years.	4 Then what was it -- and I realize
5 So I was drawing in the book for maybe	5 the translation may not be --
6 approximately three to four weeks.	6 A. That's okay.
7 Q. Total?	7 Q. And feel free to tell us it's wrong.
8 A. I'm just trying to answer the	8 But it says for two or three years I continued
9 question.	9 to be inspired by these Rastafarians. What, if
10 Q. Just so I'll understand.	10 anything, inspired you about them?
11 A. Okay.	11 MR. HAYES: Objection to the form.
12 Q. You found this book in St. Barth's?	12 You can answer.
13 A. I bought it at a bookstore.	13 A. I believed at the time that I had
14 Q. In St. Barth's?	14 maybe made a connection to the De Kooning
15 A. Yes.	15 paintings that I was painting. And I believe
16 Q. Where? In a hotel gift shop or --	16 I had found subject matter that I knew nothing
17 A. It was a regular bookstore.	17 about, which is a position I like to put myself
18 Q. A bookstore?	18 in, in order to discover new things and be able
19 A. Yes.	19 transform something that once existed over here
20 Q. On St. Barth's?	20 to over here.
21 A. In St. Barth's, yes.	21 Q. Okay.
22 Q. And you think around 2005?	22 A. So therefore, when I say perhaps I
23 A. Yes. To the best of my	23 was inspired, I decided with the De Kooning
24 recollection, yes, 2005.	24 women paintings my contribution would be a man.
25 Q. And then did you -- I understand it	25 And I felt -- I mean and this is, again, it's a



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<p style="text-align: center;">157</p> <p>1 Prince</p> <p>2 long time ago, but I believe I was thinking that</p> <p>3 the man in the De Kooning paintings should be a</p> <p>4 Rastafarian.</p> <p>5 Q. Let me just back up.</p> <p>6 You said something about this</p> <p>7 brought back to you growing up in the Canal Zone</p> <p>8 for six years?</p> <p>9 MR. HAYES: In his prior answer?</p> <p>10 Q. No, earlier today.</p> <p>11 Do you remember saying something</p> <p>12 like that?</p> <p>13 MS. BART: Can I hear the question</p> <p>14 back, please?</p> <p>15 A. Yes, I remember you, yeah, you</p> <p>16 asking me a question about the Canal Zone.</p> <p>17 Q. Right.</p> <p>18 A. Yeah. I mean I remember the</p> <p>19 question.</p> <p>20 MR. HAYES: Could I have this</p> <p>21 question read back, the last question?</p> <p>22 (Record read.)</p> <p>23 MR. HAYES: In this book?</p> <p>24 MR. BROOKS: Yes.</p> <p>25 THE WITNESS: I'm sorry, so can I</p>	<p style="text-align: center;">159</p> <p>1 Prince</p> <p>2 Well, you've been going there 12</p> <p>3 years, right?</p> <p>4 A. Yes, I would agree with that.</p> <p>5 Q. Now, the show that you were being</p> <p>6 asked about that was going to be at the Gagosian</p> <p>7 Gallery several days after the interview, was</p> <p>8 that your first solo exhibition at the Gagosian</p> <p>9 Gallery?</p> <p>10 A. At that space or with Gagosian?</p> <p>11 Q. Okay. Let's start with that space,</p> <p>12 which is on West 24th Street.</p> <p>13 A. 24th Street?</p> <p>14 Q. Yes.</p> <p>15 A. My first solo, yes.</p> <p>16 Q. Okay. Now, you broadened the</p> <p>17 question, which is fine. How about the other</p> <p>18 Gagosian galleries of which there are a number,</p> <p>19 right?</p> <p>20 A. I've had shows at other galleries.</p> <p>21 Q. But as of November 8th, 2008, had</p> <p>22 you had any solo shows at the Gagosian Gallery</p> <p>23 prior to November 8th, 2008, at any Gagosian</p> <p>24 Gallery?</p> <p>25 MR. HAYES: Any location he's asking</p>
<p style="text-align: center;">158</p> <p>1 Prince</p> <p>2 have --</p> <p>3 BY MR. BROOKS:</p> <p>4 Q. Did seeing this book Yes Rasta</p> <p>5 somehow make a connection in your mind with the</p> <p>6 Canal Zone?</p> <p>7 A. Yes. I would -- yes, I'd say that.</p> <p>8 Q. Now, have you been back to the Canal</p> <p>9 Zone -- you said you went to Panama?</p> <p>10 A. I had gone to Panama. And I had</p> <p>11 just seen the jungles.</p> <p>12 Q. Fairly recently?</p> <p>13 A. Probably -- probably, yes.</p> <p>14 In approximate to when I found the</p> <p>15 book -- yes.</p> <p>16 Q. In approximation to 2005?</p> <p>17 A. Yes.</p> <p>18 Q. Are there Rastafarians in the Canal</p> <p>19 Zone now known as Panama, that part of the Canal</p> <p>20 Zone?</p> <p>21 A. No, there aren't.</p> <p>22 Q. Are there any in St. Barth's?</p> <p>23 A. No.</p> <p>24 Q. Is the population of St. Barth's</p> <p>25 primarily white, French white people?</p>	<p style="text-align: center;">160</p> <p>1 Prince</p> <p>2 you about.</p> <p>3 A. Any location?</p> <p>4 Q. Any Gagosian Gallery location?</p> <p>5 A. Prior to? Yes.</p> <p>6 Q. Okay. But this was the first one at</p> <p>7 that Chelsea gallery?</p> <p>8 A. Yes.</p> <p>9 Q. Did you believe that the photos in</p> <p>10 the Yes Rasta book, did you believe they were</p> <p>11 distinctive?</p> <p>12 A. Well, I didn't really --</p> <p>13 MS. BART: Objection, form --</p> <p>14 A. -- look at them as --</p> <p>15 MS. BART: Hold on one second,</p> <p>16 please.</p> <p>17 Objection, form, calls for a legal</p> <p>18 conclusion. The witness is here as a fact</p> <p>19 witness, not an expert.</p> <p>20 MR. HAYES: I join in the objection.</p> <p>21 Q. Did you believe they were</p> <p>22 distinctive?</p> <p>23 MS. BART: Same objections.</p> <p>24 A. I didn't think I would describe my</p> <p>25 reaction. Also, I didn't really look at them as</p>

<p style="text-align: center;">161</p> <p>1 Prince</p> <p>2 photographs.</p> <p>3 Q. What did you look at them as?</p> <p>4 A. Images in a book.</p> <p>5 Q. Do you have any reason to doubt that</p> <p>6 they're photographs?</p> <p>7 A. I don't know if he made original --</p> <p>8 I mean I'm not in a position to say whether they</p> <p>9 were original photographs to begin with. I</p> <p>10 don't know. I just saw them in -- I saw images,</p> <p>11 reproductions of images in a book.</p> <p>12 I mean that's my -- that was my</p> <p>13 reaction. I believe my initial reaction was one</p> <p>14 of which I associated with the Canal Zone.</p> <p>15 Q. Did you like the pictures?</p> <p>16 A. Yes.</p> <p>17 Q. In the book?</p> <p>18 A. I liked the pictures.</p> <p>19 Q. You liked them a lot?</p> <p>20 A. I liked them, yes.</p> <p>21 Q. You thought they were original?</p> <p>22 MS. BART: Objection, form, calls</p> <p>23 for a legal conclusion.</p> <p>24 MR. HAYES: Objection.</p> <p>25 MR. BROOKS: No, it doesn't.</p>	<p style="text-align: center;">163</p> <p>1 Prince</p> <p>2 THE VIDEOGRAPHER: 1:05 p.m.</p> <p>3 Off the record. End of tape 2.</p> <p>4 (Recess taken: 1:05 p.m.)</p> <p>5 (Proceedings resumed: 1:53 p.m.)</p> <p>6 THE VIDEOGRAPHER: 1:53. On the</p> <p>7 record. Beginning of tape 3.</p> <p>8 BY MR. BROOKS:</p> <p>9 Q. Mr. Prince, we were looking before</p> <p>10 we broke for lunch at Exhibit 13. And we had</p> <p>11 talked about the first question and answer that</p> <p>12 you were asked and that you gave.</p> <p>13 Then there's a second question which</p> <p>14 says, What will the format for this new series</p> <p>15 be, a large format like the nurse paintings,</p> <p>16 question mark. And then your answer, Larger,</p> <p>17 there are several figures white or black female</p> <p>18 nudes beside clothed Rastafarians --</p> <p>19 MR. HAYES: It's not the second</p> <p>20 question, actually it's the third, just</p> <p>21 for clarity.</p> <p>22 Go ahead.</p> <p>23 A. Okay, I got it.</p> <p>24 MR. BROOKS: You're right, third</p> <p>25 question.</p>
<p style="text-align: center;">162</p> <p>1 Prince</p> <p>2 MS. BART: Please check 17 U.S.C.</p> <p>3 A. I didn't have that reaction, no.</p> <p>4 I mean my reaction was they were documentary I</p> <p>5 suppose.</p> <p>6 Q. Had you seen pictures like that</p> <p>7 before of Rastafarians?</p> <p>8 MR. HAYES: Objection.</p> <p>9 A. Yes, I had had a book on Bob Marley</p> <p>10 that I was also looking at at the same time.</p> <p>11 Q. Right.</p> <p>12 And did you consider incorporating a</p> <p>13 picture from the Bob Marley book into this Canal</p> <p>14 Zone exhibition?</p> <p>15 A. I did.</p> <p>16 Q. And what made you decide not to do</p> <p>17 that?</p> <p>18 A. I did do it.</p> <p>19 Q. It's in the book?</p> <p>20 A. I believe there's an image --</p> <p>21 Q. Of Bob Marley?</p> <p>22 A. Not of Bob Marley. It was an image</p> <p>23 that was in the Bob Marley book.</p> <p>24 Q. We'll get to that later because I</p> <p>25 wouldn't begin to know where it is.</p>	<p style="text-align: center;">164</p> <p>1 Prince</p> <p>2 BY MR. BROOKS:</p> <p>3 Q. Larger with several figures white or</p> <p>4 black female nudes beside clothed Rastafarians,</p> <p>5 a forest contrast like in the Luncheon on the</p> <p>6 Grass by Manet from 1862-63 which still struck</p> <p>7 me in the Picasso exhibition at the Musée</p> <p>8 d'Orsay. I combined the Rastafarians from the</p> <p>9 book with a series of hands playing the guitar</p> <p>10 that I cut out and pasted. The nurses -- played</p> <p>11 on the uniform, the Rastafarians's uniform is</p> <p>12 merely a pair of shorts, almost nothing.</p> <p>13 Sometimes they are nude like the women painted</p> <p>14 from magazines or from photos of models in my</p> <p>15 studio. In pictorial terms there is little</p> <p>16 difference between white and black. It is this</p> <p>17 kind of formal question that interests me. I've</p> <p>18 already had a small Rastafarian exhibition in</p> <p>19 St. Barth's. I called it Canal Zone as a</p> <p>20 reference to the Panama Canal of my childhood.</p> <p>21 I had put together a scene with gangs portrayed</p> <p>22 by the Rastafarians to music by Ziggy Marley,</p> <p>23 Bob Marley's oldest son, and the Wailers, his</p> <p>24 original group.</p> <p>25 With respect to this Manet painting,</p>



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<p>1 Prince</p> <p>2 Le déjeuner sur l'herbe --</p> <p>3 A. Right.</p> <p>4 Q. Le déjeuner sur l'herbe, do you know</p> <p>5 it by that name?</p> <p>6 A. Yeah, the Luncheon on the Grass?</p> <p>7 Q. Yes.</p> <p>8 A. Yes.</p> <p>9 Q. There are men, clothed men and naked</p> <p>10 women in that, as I recall, in that painting,</p> <p>11 right?</p> <p>12 A. Yes.</p> <p>13 Q. And you had just seen it at the</p> <p>14 Musée d'Orsay?</p> <p>15 A. Yes. At that time there were</p> <p>16 several -- yes, I did.</p> <p>17 Q. Were you trying in the photos in the</p> <p>18 Canal Zone book or some of the -- not photos.</p> <p>19 Let me start again.</p> <p>20 Was it your intention when you made,</p> <p>21 created the paintings that are in the Canal Zone</p> <p>22 book, to evoke the Luncheon on the Grass, Manet</p> <p>23 painting?</p> <p>24 A. I was aware of Picasso's homage to</p> <p>25 Manet. And I was also in the middle of making</p>	<p>1 Prince</p> <p>2 A. Yes.</p> <p>3 Q. -- is that what you're referring to?</p> <p>4 A. Yeah. Feet that I would paint on</p> <p>5 the paintings.</p> <p>6 Q. So correct me if I'm wrong, but are</p> <p>7 you saying that these, some of these Canal Zone</p> <p>8 paintings were a tribute -- I'll say tribute</p> <p>9 instead of homage -- to Picasso, De Kooning, and</p> <p>10 Cézanne?</p> <p>11 MR. HAYES: Object to the form, but</p> <p>12 you can answer.</p> <p>13 A. Well, I'm really interested in</p> <p>14 making art that, you know, transforms something</p> <p>15 that's already existed without getting involved</p> <p>16 in the original intent of the image. I like</p> <p>17 to -- I want to transform the existing image.</p> <p>18 And by doing, by quoting, or in the</p> <p>19 style of Picasso or in the style of De Kooning,</p> <p>20 or even thinking about the composition of</p> <p>21 Cézanne's bathers, it was a way in which I could</p> <p>22 transform those images, yes.</p> <p>23 Q. Which images?</p> <p>24 A. The images that I first found in the</p> <p>25 Yes Rasta book.</p>
166	168
<p>1 Prince</p> <p>2 an homage to De Kooning at the time.</p> <p>3 I don't believe there was a direct</p> <p>4 interest in making or pointing to that</p> <p>5 particular painting. It was more about the fact</p> <p>6 that I was interested in Picasso paying homage</p> <p>7 to a previous artist.</p> <p>8 And I think, point of fact, I would</p> <p>9 cite Cézanne's bathers as a more -- interest in</p> <p>10 mine of making the Canal Zone paintings.</p> <p>11 Q. Okay. Are you saying that one of</p> <p>12 the points or one of the messages in the Canal</p> <p>13 Zone paintings was to evoke Cézanne's bather</p> <p>14 paintings?</p> <p>15 A. I think if in fact there was a</p> <p>16 message, it was -- there was three people, yes,</p> <p>17 specifically Cézanne's bathers because of the</p> <p>18 composition, Picasso's hands and feet, and the</p> <p>19 masks that were on the De Kooning women.</p> <p>20 Q. Did you put the masks on the</p> <p>21 De Kooning women or were they there already?</p> <p>22 A. Sometimes yes, sometimes no.</p> <p>23 Q. And the feet, some of these</p> <p>24 paintings -- and we'll look at them later --</p> <p>25 have very large elephantine types of feet --</p>	<p>1 Prince</p> <p>2 Q. Where did you get the series of</p> <p>3 hands playing the guitar?</p> <p>4 A. There are several magazines</p> <p>5 published. I mean to be -- you know, what I</p> <p>6 remember specifically is Guitar Magazine. But</p> <p>7 there were other magazines. I don't recall the</p> <p>8 names, but I do recall they were like -- there</p> <p>9 are several that you can buy on the newsstand.</p> <p>10 Q. And did you cut those out as well?</p> <p>11 A. Cut them out with -- yes, I did.</p> <p>12 Q. And did you paste them onto the</p> <p>13 other images?</p> <p>14 A. Yes.</p> <p>15 Q. And then you sent the whole thing to</p> <p>16 that lab?</p> <p>17 A. NancyScans.</p> <p>18 Q. NancyScans. So they can be scanned</p> <p>19 onto the canvases?</p> <p>20 A. I'm not sure I would word it like</p> <p>21 that.</p> <p>22 MR. HAYES: Object to the form.</p> <p>23 Q. So it could be transferred onto the</p> <p>24 canvases?</p> <p>25 A. What I -- no, I'm not sure I would</p>

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1 Prince	1 Prince
2 word what I would -- that I sent to NancyScans.	2 Q. And what kind of magazine is that?
3 Q. What did you send to NancyScans?	3 A. It's a publishing. They publish
4 A. I sent a collage.	4 books.
5 Q. What does that mean?	5 Q. When you said men's magazines --
6 A. A collage.	6 A. They published a book on men's
7 Q. Well, in this case what do you mean	7 magazines.
8 by collage?	8 Q. And that's where you got the --
9 A. It means I ripped out a reproduction	9 A. That's where I got some of the
10 from a book or a magazine and cut it up, pasted	10 images.
11 it, scotch taped, and then mounted it on a piece	11 Q. Did you get some from -- I'll use
12 of white paper and drew some dimensions,	12 the term loosely -- porno magazines?
13 60 inches wide and --	13 A. Porno?
14 Q. So it could be enlarged?	14 MR. HAYES: Objection to form.
15 A. So it could be enlarged -- yeah, I	15 How loosely?
16 mean I just say 60, yes, various sizes.	16 Q. Pornographic magazines.
17 Q. And then NancyScan would enlarge it	17 A. Pornographic?
18 to the size you told them?	18 Q. I'm only asking you that because
19 A. Yes.	19 I've read that in a number of the articles.
20 Q. And then they would send it back to	20 A. Yeah.
21 you?	21 Q. I don't know if it's true, so that's
22 A. They would send it back to me.	22 why I'm asking you.
23 Q. By electronically or physically?	23 A. I mean -- I suppose you're talking
24 A. Physically. They would send me --	24 about like something that's like triple X or --
25 Q. So in this process that you've	25 you know -- I'm trying to think here.
170	172
1 Prince	1 Prince
2 described you never actually used a camera,	2 I mean Richard Kern and Eric Kroll's
3 correct, you personally?	3 images have been described -- I wouldn't
4 A. For this, for the Canal Zone series,	4 describe their images as pornographic, but they
5 no, I've never used a camera, no.	5 have been by other people.
6 Q. And where did you get the nude	6 Q. Were some of the nude females just
7 females that are in many of these paintings?	7 anonymous where you didn't know who the
8 A. Mostly from Taschen, a lot from --	8 photographer was who had taken the pictures?
9 they had published a series of books on men's	9 A. Especially the ones from the Taschen
10 magazines that was edited by a friend of mine,	10 publications they were -- even some of the
11 that she sent me the books. And also --	11 credits I suppose were anonymous where I didn't
12 (Interruption.)	12 know the models, I didn't know -- you know, I
13 A. Should I continue?	13 didn't really pay attention.
14 Q. Yes.	14 Q. And were some of them, some of the
15 A. I remember some of the women came	15 nude females in these paintings, models you had
16 out of two specific photographers' books,	16 hired for those paintings?
17 Richard Kern and Eric Kroll.	17 A. I hired a nude model, yes.
18 Q. With a K?	18 Q. The woman with the apron?
19 A. Kroll with a -- K-R-O-L-L.	19 A. Yes.
20 And Kern with a K.	20 Q. But she's not in the Canal Zone
21 Q. Now, you said Taschen, is that what	21 paintings, right? Or maybe she is. I don't
22 you said, T-A --	22 think she is --
23 A. Taschen Publishers. T-A-C-H --	23 A. She was in -- I know -- I recall one
24 MR. HAYES: T-A-S-C-H-E-N.	24 painting she's painted out, but there's a very
25 A. T-A-S-C-H-E-N.	25 thin -- there's a lot of ghosts in some of these



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<p style="text-align: center;">173</p> <p>1 Prince</p> <p>2 paintings. A lot of things got painted out.</p> <p>3 That's part of the process. That's part of my</p> <p>4 technique of how I transfer images and how I</p> <p>5 make them different.</p> <p>6 Q. Right.</p> <p>7 A. So it's hard to say whether or not</p> <p>8 she's in the painting. She's in the painting</p> <p>9 physically in her representation, but it's very</p> <p>10 difficult to see her. However, she is in the</p> <p>11 catalog.</p> <p>12 Q. Right. And to the extent she's in</p> <p>13 the painting did somebody take her photograph?</p> <p>14 A. I hired her and I took -- I spent an</p> <p>15 afternoon taking her photograph, yes.</p> <p>16 Q. So the photograph of that --</p> <p>17 photographs of that woman in the inserts are</p> <p>18 photographs that you took?</p> <p>19 A. I took, yes, I took them.</p> <p>20 Q. Did you have any assistants helping</p> <p>21 you with cutting out, pasting, sending things to</p> <p>22 NancyScan or did you do it yourself?</p> <p>23 A. I did it myself.</p> <p>24 Q. You do have at least two assistants,</p> <p>25 right, Betsy and -- Betsy Biscone and Eric</p>	<p style="text-align: center;">175</p> <p>1 Prince</p> <p>2 Q. In your garage, okay.</p> <p>3 And in the summer do you do some of</p> <p>4 your artwork there rather than in</p> <p>5 Rensselaerville?</p> <p>6 A. Yes.</p> <p>7 Q. And these Rasta paintings, that's</p> <p>8 what they've been called in a lot of articles,</p> <p>9 that were in the Canal Zone, were those done in</p> <p>10 your Long Island studio?</p> <p>11 A. Well, the Canal Zone paintings were</p> <p>12 mostly done by myself in the garage studio or</p> <p>13 the studio in Long Island, yes.</p> <p>14 Q. In Wainscott?</p> <p>15 A. In Wainscott.</p> <p>16 Q. Okay. Now, in this interview in</p> <p>17 Figaro you also said you had a small Rastafarian</p> <p>18 exhibition in St. Barth's, correct?</p> <p>19 A. I don't believe -- is that what I</p> <p>20 said?</p> <p>21 Q. That's what it says here.</p> <p>22 MR. HAYES: That's what the</p> <p>23 translation said.</p> <p>24 Q. I already had a small Rastafarian</p> <p>25 exhibition in St. Barth's, and this is in</p>
<p style="text-align: center;">174</p> <p>1 Prince</p> <p>2 Brown?</p> <p>3 A. Yes.</p> <p>4 Q. Do you have other assistants as</p> <p>5 well?</p> <p>6 A. Yes.</p> <p>7 Q. How many others?</p> <p>8 A. Do you want their names?</p> <p>9 Q. No.</p> <p>10 A. No, no. I have -- you mean</p> <p>11 assistants that help me maybe in the studio</p> <p>12 while I was doing these paintings?</p> <p>13 Q. Right.</p> <p>14 A. Two.</p> <p>15 Q. In addition to those two?</p> <p>16 A. Yes.</p> <p>17 Q. So that's a total of four?</p> <p>18 A. Yes.</p> <p>19 Q. And some of the e-mails and things</p> <p>20 refer to a Long Island studio?</p> <p>21 A. Yes.</p> <p>22 Q. And where is that?</p> <p>23 A. It's in Wainscott.</p> <p>24 Q. In your house in Wainscott?</p> <p>25 A. I have a little studio in my garage.</p>	<p style="text-align: center;">176</p> <p>1 Prince</p> <p>2 November of 2008.</p> <p>3 A. Well, I was probably wrong in</p> <p>4 describing the exhibition that way, although I</p> <p>5 did probably -- if that's the translation, I did</p> <p>6 call the exhibition Canal Zone.</p> <p>7 I don't believe -- I don't</p> <p>8 remember -- I don't think -- it was a fairly</p> <p>9 casual exhibition, so I don't believe there was</p> <p>10 an invitation card. So I don't know if there</p> <p>11 was a title to the show. I doubt very much --</p> <p>12 usually you make up a postcard and you put the</p> <p>13 title, but I don't think we did that for that</p> <p>14 show.</p> <p>15 Q. Let me just ask you this. This is</p> <p>16 in late 2007, there was a show at the Eden Rock</p> <p>17 Hotel in St. Barth's of some of your work,</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. And it was called the Eden Rock</p> <p>21 show?</p> <p>22 A. I don't think we called it anything,</p> <p>23 but I might be mistaken.</p> <p>24 Q. But it was about maybe 14 or 15</p> <p>25 different works, right?</p>



<p style="text-align: center;">189</p> <p>1 Prince</p> <p>2 A. Me?</p> <p>3 Q. Yes.</p> <p>4 A. Yes.</p> <p>5 Q. And you wanted a friend of yours</p> <p>6 Lisa Evans to look at some of these Eden Rock</p> <p>7 paintings?</p> <p>8 A. Yes.</p> <p>9 Q. Was that with a view to selling her</p> <p>10 one or more paintings?</p> <p>11 A. I was probably thinking that her</p> <p>12 husband might be interested in buying one.</p> <p>13 Q. Her husband is Michael Evans?</p> <p>14 A. Yes.</p> <p>15 Q. Is he a collector?</p> <p>16 A. He had just about started to be one</p> <p>17 about that time.</p> <p>18 Q. What's his occupation?</p> <p>19 A. That's a good question. I believe</p> <p>20 he works for a broker -- what's that -- one of</p> <p>21 those --</p> <p>22 Q. Hedge funds?</p> <p>23 A. No, a -- you know, like Lehman</p> <p>24 Brothers.</p> <p>25 Q. Brokerage firm?</p>	<p style="text-align: center;">191</p> <p>1 Prince</p> <p>2 A. I know which painting it was, I just</p> <p>3 don't know --</p> <p>4 Q. The title?</p> <p>5 A. -- the exact amount.</p> <p>6 Q. All right.</p> <p>7 MR. BROOKS: Let's mark as</p> <p>8 Plaintiff's Exhibit 18 an e-mail from</p> <p>9 Mr. Prince dated July 26, 2007, Bates</p> <p>10 stamped GGP004307.</p> <p>11 (Plaintiff's Exhibit 18, e-mail</p> <p>12 dated July 26, 2007, was marked for</p> <p>13 identification, as of this date.)</p> <p>14 Q. Is this an e-mail that you sent to</p> <p>15 Larry Gagosian?</p> <p>16 A. It looks -- yes, I believe it is.</p> <p>17 Q. And you said you had a couple of</p> <p>18 thoughts about guns and ammo, what did you mean</p> <p>19 about that? What did you mean by using that</p> <p>20 phrase guns and ammo?</p> <p>21 A. I believe it was a way of trying to</p> <p>22 describe the paintings that were going to be</p> <p>23 shown at Eden Rock at that show.</p> <p>24 Q. So it says this is a storyboard for</p> <p>25 a screenplay about some guy named Charles</p>
<p style="text-align: center;">190</p> <p>1 Prince</p> <p>2 A. Yeah, you know --</p> <p>3 MR. HAYES: Investment bank?</p> <p>4 THE WITNESS: What?</p> <p>5 MR. HAYES: An investment bank?</p> <p>6 THE WITNESS: Yeah, an investment</p> <p>7 bank.</p> <p>8 Q. In fact, he later bought one of your</p> <p>9 paintings at the Canal Zone show, didn't he?</p> <p>10 A. Yes.</p> <p>11 Q. Which one?</p> <p>12 A. I believe it was -- I would have to</p> <p>13 look. I mean I know the painting, I just don't</p> <p>14 recall the title.</p> <p>15 Q. Okay. You can visualize it?</p> <p>16 A. I can visualize it, yes.</p> <p>17 Q. Can you visualize how much he paid</p> <p>18 for it?</p> <p>19 MR. HAYES: Objection to form.</p> <p>20 MS. BART: Objection to form.</p> <p>21 Q. You can answer.</p> <p>22 A. I believe he paid around two-million</p> <p>23 dollars, but I don't know that for sure because</p> <p>24 of -- I'm not --</p> <p>25 Q. -- sure which painting it was?</p>	<p style="text-align: center;">192</p> <p>1 Prince</p> <p>2 Company?</p> <p>3 A. Mm-hmm.</p> <p>4 Q. For the record, you have to say yes</p> <p>5 or no.</p> <p>6 A. Oh, I'm sorry. Yes.</p> <p>7 Q. All right. He arrives in</p> <p>8 St. Barth's with his wife and children and finds</p> <p>9 out when he gets to St. Barth's that something</p> <p>10 horrible has happened?</p> <p>11 A. Yes.</p> <p>12 Q. A nuclear war consuming most of</p> <p>13 civilization, is that right?</p> <p>14 A. Yes.</p> <p>15 Q. And then he becomes Charlie Company</p> <p>16 instead of Charles Company by which you meant</p> <p>17 what?</p> <p>18 A. I just thought it was an interesting</p> <p>19 way to change his name. He becomes an action</p> <p>20 hero.</p> <p>21 Q. Becomes weaponized?</p> <p>22 A. Yes.</p> <p>23 Q. So that --</p> <p>24 A. He can fight --</p> <p>25 Q. In the aftermath of nuclear war he</p>

<p style="text-align: center;">205</p> <p>1 Prince</p> <p>2 Q. Okay. Now, at the bottom of the</p> <p>3 second page -- I don't mean to rush you. If you</p> <p>4 want to look at --</p> <p>5 A. No.</p> <p>6 Q. -- something on the first page, be</p> <p>7 my guest.</p> <p>8 The interviewer at the very bottom</p> <p>9 is asking you, is naming three other well-known</p> <p>10 contemporary artists, right?</p> <p>11 A. Yes.</p> <p>12 Q. Longo, Schnabel, and Sherman.</p> <p>13 You know those people, right?</p> <p>14 A. Yes, I do.</p> <p>15 Q. And he says -- or she -- no, he says</p> <p>16 that they've all made movies and I've wondered</p> <p>17 why you haven't. Do you see that question?</p> <p>18 A. Yes.</p> <p>19 Q. And then, according to this, your</p> <p>20 answer was I'm not very collaborative, I like</p> <p>21 being alone, working alone, I hate actresses,</p> <p>22 I don't like having to ask permission, a green</p> <p>23 light is not something I would be happy waiting</p> <p>24 for. Does that sound like an answer you gave in</p> <p>25 2003?</p>	<p style="text-align: center;">207</p> <p>1 Prince</p> <p>2 stamped PR79 and 80.</p> <p>3 (Plaintiff's Exhibit 22, pitch, was</p> <p>4 marked for identification, as of this</p> <p>5 date.)</p> <p>6 Q. Mr. Prince, is this the pitch you</p> <p>7 wrote for a movie -- for a movie?</p> <p>8 A. Yes.</p> <p>9 Q. And do you remember we were looking</p> <p>10 at an e-mail you sent to Mr. Gagosian, is this</p> <p>11 the pitch that you were referring to in that</p> <p>12 e-mail?</p> <p>13 A. Probably, yes.</p> <p>14 Q. Are there different versions of it?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Did you type it yourself on</p> <p>17 the computer?</p> <p>18 A. Yes, I did.</p> <p>19 Q. Okay. So, again, it's this Charles</p> <p>20 Company, which is a person and not a company,</p> <p>21 and his family, they arrive in St. Barth's,</p> <p>22 everyone is crying because there's a nuclear</p> <p>23 war, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And what are we supposed to do, most</p>
<p style="text-align: center;">206</p> <p>1 Prince</p> <p>2 A. It's the answer I gave, yes.</p> <p>3 Q. And then the interviewer asks you</p> <p>4 anyway, well, what movies do you like, just from</p> <p>5 the '80s, and I see you mentioned Road Warrior</p> <p>6 and Blade Runner, which I guess you would agree</p> <p>7 those are both post-apocalyptic movies, is that</p> <p>8 right?</p> <p>9 A. Yes.</p> <p>10 Q. And I'm not really familiar with</p> <p>11 the others. Are any of the others also</p> <p>12 post-apocalyptic movies?</p> <p>13 A. Terminator.</p> <p>14 Q. Okay, all right. That's an Arnold</p> <p>15 Schwarzenegger movie?</p> <p>16 A. Yes.</p> <p>17 Q. And did that, did your appreciation</p> <p>18 for that genre inform your writing of the pitch,</p> <p>19 of your pitch?</p> <p>20 A. I guess you could say that, yes.</p> <p>21 MR. BROOKS: Let's mark as</p> <p>22 Exhibit 22 -- just so you know, I skipped</p> <p>23 21, I'm not going to -- it's not going to</p> <p>24 be marked.</p> <p>25 Exhibit 22 is the pitch, Bates</p>	<p style="text-align: center;">208</p> <p>1 Prince</p> <p>2 of the world is destroyed, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And you say you compare this to</p> <p>5 On the Beach and Lord of the Flies?</p> <p>6 A. Yes.</p> <p>7 Q. For reasons that are probably</p> <p>8 obvious?</p> <p>9 A. Yes.</p> <p>10 Q. And he's an architect in this</p> <p>11 version, this person Charles Company?</p> <p>12 A. Yes.</p> <p>13 Q. And not somebody who's used to</p> <p>14 shooting people or anything like that?</p> <p>15 A. No, he's not used to.</p> <p>16 Q. But he learns, he has to learn?</p> <p>17 A. He adapts, yes.</p> <p>18 Q. And they stay at the Eden Rock Hotel</p> <p>19 with some other people?</p> <p>20 A. I believe his relatives, yes.</p> <p>21 Q. And, again, that's a hotel in</p> <p>22 St. Barth's?</p> <p>23 A. Yes.</p> <p>24 Q. All right. Now, and then at the</p> <p>25 very end it says his son is standing lookout.</p>



<p style="text-align: center;">213</p> <p>1 Prince</p> <p>2 A. Somewhere.</p> <p>3 Q. With those other works?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And, again, that show was</p> <p>6 December 2007 to, according to the e-mail, the</p> <p>7 end of February 2008, the show at the Eden Rock?</p> <p>8 A. Yes.</p> <p>9 MR. BROOKS: Now, let's mark as</p> <p>10 Exhibit 23, Plaintiff's 23, pages Bates</p> <p>11 stamped PR75 and 76.</p> <p>12 (Plaintiff's Exhibit 23, e-mails,</p> <p>13 was marked for identification, as of this</p> <p>14 date.)</p> <p>15 Q. This e-mail -- there are two</p> <p>16 e-mails. One is -- they're both to Betsy</p> <p>17 Biscone. Does she work for you?</p> <p>18 A. Yes.</p> <p>19 Q. It says she's the Prince studio</p> <p>20 manager, is that her title?</p> <p>21 A. Yes.</p> <p>22 Q. And she's writing to somebody at</p> <p>23 Gagosian, right, Louise Neri?</p> <p>24 A. Yes.</p> <p>25 Q. And she says, I hope -- I'm looking</p>	<p style="text-align: center;">215</p> <p>1 Prince</p> <p>2 Q. And they go to the Hotel Manapany?</p> <p>3 A. Yes.</p> <p>4 Q. Is that an actual hotel --</p> <p>5 A. Yes.</p> <p>6 Q. -- in St. Barth's?</p> <p>7 And then there are --</p> <p>8 MR. HAYES: You have to answer.</p> <p>9 A. Yes.</p> <p>10 Q. There are backpackers. So this is</p> <p>11 another tribe, if you will?</p> <p>12 A. Yes.</p> <p>13 Q. And are there any backpackers in any</p> <p>14 of the Canal Zone paintings?</p> <p>15 MS. BART: Objection to form.</p> <p>16 Q. As you used the term?</p> <p>17 MR. HAYES: Objection to form.</p> <p>18 A. No, there are no backpackers.</p> <p>19 Q. Then the third group is the Amazons,</p> <p>20 which you refer to as four lesbians who escape a</p> <p>21 second cruise ship. Do they later take over a</p> <p>22 hotel also?</p> <p>23 A. Yes.</p> <p>24 Q. The Guanahani?</p> <p>25 A. Guanahani.</p>
<p style="text-align: center;">214</p> <p>1 Prince</p> <p>2 at the second e-mail. She says, I hope this</p> <p>3 finds you well. And it says, Per Richard's</p> <p>4 request, please find attached the pitch which</p> <p>5 was displayed on the wall at the Eden Rock Hotel</p> <p>6 in St. Barth's the last December 2007 Eden Rock</p> <p>7 show. And then she says, Also find below</p> <p>8 additional writing Richard did this past spring</p> <p>9 of '08. And then at the bottom there are some</p> <p>10 additional Eden Rock slash pitch material</p> <p>11 written March 2008.</p> <p>12 Do you see that?</p> <p>13 A. Mm-hmm, yes.</p> <p>14 Q. Did you write those additional</p> <p>15 points to the pitch?</p> <p>16 A. Yes.</p> <p>17 Q. So let's see. It says more on</p> <p>18 Eden Rock. And you're saying there are Rastas</p> <p>19 who escape from a cruise ship?</p> <p>20 A. Yes.</p> <p>21 Q. And they were a band?</p> <p>22 A. Yes.</p> <p>23 Q. Like a rock-and-roll band on the --</p> <p>24 a reggae band on the cruise ship?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">216</p> <p>1 Prince</p> <p>2 Q. And, again, like why did they take</p> <p>3 over a hotel, because of the nuclear war?</p> <p>4 A. They take it over because I wanted</p> <p>5 them to take it over.</p> <p>6 Q. And why -- I just look at these</p> <p>7 pictures, why are those nude women lesbians?</p> <p>8 I mean how do you know that?</p> <p>9 A. I like lesbians.</p> <p>10 Q. But how does the observer know</p> <p>11 they're lesbians?</p> <p>12 A. The title of the painting --</p> <p>13 Q. Four names?</p> <p>14 A. The four names were very famous</p> <p>15 expatriate lesbians living in Paris.</p> <p>16 Q. Iconic lesbian artists and writers?</p> <p>17 A. Iconic.</p> <p>18 Q. What are their names?</p> <p>19 A. Renée Vivien, Djuna Barnes -- I have</p> <p>20 to refer to the title.</p> <p>21 Q. You don't remember?</p> <p>22 MR. HAYES: Do you want to refer to</p> <p>23 the title?</p> <p>24 MR. BROOKS: No, I want to see if he</p> <p>25 remembers.</p>



<p style="text-align: center;">217</p> <p>1 Prince</p> <p>2 A. Romaine Brooks, and the most famous</p> <p>3 one, she was from the State of Maine and she was</p> <p>4 the one who ran the salon that was the</p> <p>5 alternative to Gertrude Stein.</p> <p>6 Q. In Maine?</p> <p>7 A. The name?</p> <p>8 Q. In Maine?</p> <p>9 A. No, in Paris.</p> <p>10 Q. Something Barnes?</p> <p>11 A. No, Djuna Barnes was a writer,</p> <p>12 friend of --</p> <p>13 Q. All right. Well, when we look at</p> <p>14 the painting it will probably come back.</p> <p>15 So what are four lesbians from the</p> <p>16 early 20th century doing on St. Barth's in --</p> <p>17 now, when there's a nuclear war, like why are</p> <p>18 they there?</p> <p>19 A. Your guess is as good as mine.</p> <p>20 That's what I do, I make things up.</p> <p>21 Q. And when do you decide to do the --</p> <p>22 A. Natalie Barney.</p> <p>23 Q. That's it.</p> <p>24 Barney or Barnes?</p> <p>25 A. Natalie Barney.</p>	<p style="text-align: center;">219</p> <p>1 Prince</p> <p>2 depictions of let's call them, to use your term,</p> <p>3 the ultimate ones?</p> <p>4 A. No.</p> <p>5 Q. And are there any depictions of this</p> <p>6 guy Charlie Company or his family?</p> <p>7 A. You could say his daughter got into</p> <p>8 a couple of the pictures.</p> <p>9 Q. One of the nude women?</p> <p>10 A. Yes.</p> <p>11 Q. Is she a lesbian too?</p> <p>12 A. No.</p> <p>13 Q. So when we get to that painting</p> <p>14 you'll --</p> <p>15 A. I don't think -- it's not -- well,</p> <p>16 you probably have it. It's not in the catalog.</p> <p>17 Q. All right. I already asked you</p> <p>18 about this, but let's mark as Plaintiff's 24</p> <p>19 pages Bates stamped PR88 through 91.</p> <p>20 (Plaintiff's Exhibit 24, PR88</p> <p>21 through 91, was marked for identification,</p> <p>22 as of this date.)</p> <p>23 Q. Mr. Prince, I've placed in front of</p> <p>24 you Plaintiff's Exhibit 24. If you could look</p> <p>25 at -- start out by looking at the second page,</p>
<p style="text-align: center;">218</p> <p>1 Prince</p> <p>2 Q. When did you decide to do the Canal</p> <p>3 Zone paintings, the ones that are in the Canal</p> <p>4 Zone book?</p> <p>5 A. June of 2008, late June.</p> <p>6 Q. So after you wrote this let's call</p> <p>7 it an addendum to your pitch?</p> <p>8 A. Yes.</p> <p>9 Q. By the way, in the paintings -- I</p> <p>10 didn't finish, besides the Amazons there are</p> <p>11 also the ultimate ones. Those are like masters</p> <p>12 of the universe?</p> <p>13 A. Ultimate ones? That I don't -- I</p> <p>14 don't -- to tell you the truth, I don't know</p> <p>15 what I was referring to -- power.</p> <p>16 Oh, maybe the people who owned</p> <p>17 things.</p> <p>18 Q. Like the hedge fund people who go</p> <p>19 there at Christmas time?</p> <p>20 A. Maybe, yeah.</p> <p>21 Q. And then also Charlie Company also</p> <p>22 represents family, and that's also a tribe</p> <p>23 according to this?</p> <p>24 A. Yes.</p> <p>25 Q. Now, in the paintings are there any</p>	<p style="text-align: center;">220</p> <p>1 Prince</p> <p>2 which appears to be an e-mail from Betsy Biscone</p> <p>3 at Prince Studio to James Frey, do you see that?</p> <p>4 At the top of the second page?</p> <p>5 A. Yes.</p> <p>6 Q. She says, Lovely speaking with you</p> <p>7 just now, and she is attaching the pitch,</p> <p>8 capital T, capital P, correct?</p> <p>9 A. Yes.</p> <p>10 Q. And then she says, And a few images</p> <p>11 from last December's Eden Rock show. So those</p> <p>12 are images of what you called before guns and</p> <p>13 ammo, those paintings, from the Eden Rock show?</p> <p>14 A. Yes.</p> <p>15 Q. And then -- that was September 9th,</p> <p>16 2008. And then on September 11th, 2008, the</p> <p>17 same person Betsy writes to Melissa -- do you</p> <p>18 know Melissa at Gagosian Gallery?</p> <p>19 A. Yes.</p> <p>20 Q. She says towards the bottom of that</p> <p>21 e-mail, Lastly, we love James' draft, I just</p> <p>22 sent Richard off to the city and ask that he</p> <p>23 touch base with him today. Can you believe he</p> <p>24 wrote all that in just one night?</p> <p>25 Were you aware that he had taken</p>



<p style="text-align: center;">229</p> <p>1 Prince</p> <p>2 A. It's a movie. I love -- I love</p> <p>3 Gekko in Wall Street. He's not a character</p> <p>4 that's very -- he's not a nice guy. I think</p> <p>5 sometimes -- you know, you write -- in the</p> <p>6 course of a screenplay or a pitch you write</p> <p>7 about people that aren't very nice.</p> <p>8 Q. Well, like in Road Warrior you're</p> <p>9 supposed to root for the Mel Gibson character,</p> <p>10 right?</p> <p>11 A. I guess some people would. I don't</p> <p>12 know.</p> <p>13 Q. Do you know if in this case you're</p> <p>14 supposed to root for this 46-year-old guy who</p> <p>15 never flies commercial or not?</p> <p>16 MR. HAYES: Objection to form.</p> <p>17 MS. BART: Objection to form.</p> <p>18 Q. I mean are you supposed to hope that</p> <p>19 somebody kills him and takes over his house or</p> <p>20 whatever, his hotel room?</p> <p>21 MR. HAYES: Objection to form.</p> <p>22 MS. BART: Same.</p> <p>23 MR. HAYES: Objection.</p> <p>24 A. I mean you're asking me to be a</p> <p>25 movie critic. I --</p>	<p style="text-align: center;">231</p> <p>1 Prince</p> <p>2 Q. You can answer.</p> <p>3 A. You mean does his essay?</p> <p>4 Q. Have any bearing on your paintings</p> <p>5 in the Canal Zone show and book?</p> <p>6 A. I think there are parts of his essay</p> <p>7 that are fairly close to my original pitch,</p> <p>8 not -- but I wouldn't say all of his essay.</p> <p>9 Q. But are they also --</p> <p>10 MS. BART: I had attempted to</p> <p>11 interpose an objection before the witness</p> <p>12 started speaking, and I will do that now.</p> <p>13 Q. I think maybe you misunderstood my</p> <p>14 question. My question was whether the pitch or</p> <p>15 the essay had a bearing on your paintings that</p> <p>16 are in the show and the book?</p> <p>17 MS. BART: Objection, form.</p> <p>18 MR. HAYES: Form also.</p> <p>19 A. Does my pitch have anything to do --</p> <p>20 is that the question?</p> <p>21 Q. Let's start with your pitch.</p> <p>22 A. I'm sorry, I'm getting just a little</p> <p>23 confused here.</p> <p>24 Q. There's a Canal Zone book and a</p> <p>25 show, right, that was at the Gagosian Gallery at</p>
<p style="text-align: center;">230</p> <p>1 Prince</p> <p>2 Q. Well, it's your movie, right?</p> <p>3 MR. HAYES: No.</p> <p>4 MS. BART: But that's not his</p> <p>5 script.</p> <p>6 A. It's not my -- it's his essay based</p> <p>7 on -- based.</p> <p>8 Q. Right. On your pitch?</p> <p>9 A. Really, I mean I think you would</p> <p>10 have to ask him this question.</p> <p>11 Q. I'm going to.</p> <p>12 A. I think this would have to be more</p> <p>13 fleshed out in order to answer that kind of</p> <p>14 question, whether or not I would root for a guy</p> <p>15 like that. I mean I don't know what that has to</p> <p>16 do with anything --</p> <p>17 MS. BART: Me neither.</p> <p>18 A. -- that we're talking about, but --</p> <p>19 Q. Well, let me ask you this. Does</p> <p>20 this pitch or the essay that ended up in the</p> <p>21 Canal Zone book, do either of them have anything</p> <p>22 to do with the paintings, your paintings in the</p> <p>23 Canal Zone book and show?</p> <p>24 MS. BART: Objection to form.</p> <p>25 MR. HAYES: Objection to form.</p>	<p style="text-align: center;">232</p> <p>1 Prince</p> <p>2 the end of 2008, right?</p> <p>3 A. Yes.</p> <p>4 Q. Those were your paintings, right?</p> <p>5 A. Yes.</p> <p>6 Q. Okay, first, your pitch that you did</p> <p>7 in 2007 and modified in March 2008 --</p> <p>8 A. Yes.</p> <p>9 Q. -- does that relate to your</p> <p>10 paintings?</p> <p>11 A. Yes.</p> <p>12 Q. Does his modification of your pitch</p> <p>13 relate to your paintings?</p> <p>14 MR. HAYES: Objection to form.</p> <p>15 MS. BART: Join.</p> <p>16 A. Does his modification -- again, part</p> <p>17 of his modification I would say, not all of it.</p> <p>18 Q. Can you tell me which part?</p> <p>19 Well, bear in mind that's not the</p> <p>20 final draft.</p> <p>21 MR. HAYES: So you -- what you want</p> <p>22 him to do is compare the draft to the</p> <p>23 painting --</p> <p>24 MR. BROOKS: Well, I'm going to --</p> <p>25 (Multiple speakers talking at once.)</p>

<p style="text-align: center;">233</p> <p>1 Prince 2 (Interruption by reporter.) 3 MR. HAYES: You want him to compare 4 the draft or -- 5 MR. BROOKS: Well, that's what we're 6 talking about now. 7 MR. HAYES: Let me just finish. 8 Or the essay? 9 MR. BROOKS: Right now the draft. 10 (Discussion off the record.) 11 MR. BROOKS: Let's get this answer 12 and then we'll take a break. 13 A. Yeah, I would say every year at 14 Christmas you and your family go to St. Barth. 15 That has to do with my original pitch. 16 You stay at Eden Rock -- 17 (Clarification by reporter.) 18 A. You stay in Eden Rock. 19 Everything is gone. Everything 20 is gone. 21 Every major city in North America, 22 Russia, Europe, Middle East, that has to do with 23 my original pitch. 24 First day you're shocked, second day 25 you're scared, third day you're confused, fourth</p>	<p style="text-align: center;">235</p> <p>1 Prince 2 might not remember what the question was. It 3 was something about whether there were things in 4 the draft essay by Mr. Frey that related to the 5 paintings in the Canal Zone show, and I think 6 you mentioned a few. And if you have any others 7 you want to add, please do. 8 A. I don't really think that anything 9 that James ultimately wrote for the essay for 10 the Canal Zone publication had anything to do 11 with the paintings really. 12 I told him he could write anything 13 he wanted. I gave him carte blanche. 14 And ultimately he wrote, as far as 15 I can see, a variation, a very tiny -- again, 16 there's one paragraph of a pitch that I had made 17 to him and was continually updating at the time. 18 Whether he even got the updates, I really 19 can't -- I don't know. 20 But ultimately what I think he 21 turned in was something that had to do with his 22 own problems, which, as I said, he had just lost 23 a baby. 24 Q. Do you have anything else to add to 25 that answer?</p>
<p style="text-align: center;">234</p> <p>1 Prince 2 day you're panicked, fall apart on the fifth, 3 sixth day it is a riot, seventh day is doom. 4 He could have written -- he could 5 have just submitted that and that would have 6 been enough for me, personally. 7 But, as I said, I'm not -- I'm not a 8 censor, and I'm not an editor. And I was the 9 one who asked him to write what he wanted to 10 write, you know. I wasn't about to change 11 anything that he had given me. 12 I mean these are his words. 13 Your money is worthless, your job 14 title, that's all -- 15 Q. I think he's run out of film. 16 A. I'm sorry. 17 THE VIDEOGRAPHER: 3:17. Off the 18 record. End of tape 3. 19 (Recess taken: 3:17 p.m.) 20 (Proceedings resumed: 3:29 p.m.) 21 THE VIDEOGRAPHER: 3:29. On the 22 record. Beginning of tape 4. 23 BY MR. BROOKS: 24 Q. I think, Mr. Prince, you might have 25 been interrupted at the end of your answer. You</p>	<p style="text-align: center;">236</p> <p>1 Prince 2 A. No. 3 MS. BART: Objection, form. 4 Q. Now, you mentioned that you bought a 5 copy of Yes Rasta in a bookstore you think in 6 about 2005 in St. Barth's? 7 A. Yes. 8 Q. When you decided to make the 9 paintings did you then buy additional copies of 10 Yes Rasta? 11 A. I believe we were informed that the 12 book was out of print when I bought the -- I 13 don't actually know -- I believe we got them on 14 eBay. I really don't know where we got the 15 additional books. 16 Q. All right. But you did get 17 additional books? 18 A. Yes. 19 Q. How many? 20 A. I think we bought maybe four 21 additional books. 22 Q. In 2008? 23 A. Yes. 24 MR. BROOKS: Let's mark as 25 Plaintiff's Exhibit 27 a one-page document</p>



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<p>1 Prince</p> <p>2 Q. Did you look to see who the</p> <p>3 publisher was so you could order more books?</p> <p>4 A. I think probably by 2008 we --</p> <p>5 that's probably how we got ahold of the</p> <p>6 additional books.</p> <p>7 Q. Right.</p> <p>8 MO MS. BART: Objection. Move to</p> <p>9 strike answer as speculative.</p> <p>10 Q. Did you personally ever notice that</p> <p>11 there was a copyright notice in the Yes Rasta</p> <p>12 book?</p> <p>13 A. No.</p> <p>14 Q. Do you know what I mean by copyright</p> <p>15 notice?</p> <p>16 MR. HAYES: Objection as to form.</p> <p>17 A. Do you mean the little C with the</p> <p>18 circle on it?</p> <p>19 Q. Yes.</p> <p>20 A. Yes.</p> <p>21 Q. Now, in the -- withdrawn.</p> <p>22 In your book do you know who the</p> <p>23 copyright owner is of the essay?</p> <p>24 A. No, I don't.</p> <p>25 MR. BROOKS: Let's mark as</p>	<p>1 Prince</p> <p>2 A. Yes.</p> <p>3 Q. You've known him a long time, right?</p> <p>4 A. Yes.</p> <p>5 Q. You did some illustrations for a</p> <p>6 book of poems that Glenn O'Brien wrote a long</p> <p>7 time ago?</p> <p>8 A. Yes.</p> <p>9 Q. Lozenge eyes?</p> <p>10 A. Yes.</p> <p>11 Q. Is that a technique that you</p> <p>12 borrowed from John Baldessari?</p> <p>13 A. No.</p> <p>14 Q. Did you borrow it from someone?</p> <p>15 A. No.</p> <p>16 Q. It's your own technique?</p> <p>17 A. What do you mean by technique?</p> <p>18 Q. Putting lozenge eyes on --</p> <p>19 A. It's my own. I came up with the</p> <p>20 idea, yes.</p> <p>21 Q. And you did it for Glenn O'Brien's</p> <p>22 book?</p> <p>23 A. Yes.</p> <p>24 Q. To illustrate his poetry?</p> <p>25 A. To illustrate his poetry, yes.</p>
242	244
<p>1 Prince</p> <p>2 Plaintiff's Exhibit 28 an interview in</p> <p>3 Interview Magazine Bates stamped C65</p> <p>4 through C77.</p> <p>5 (Plaintiff's Exhibit 28, interview</p> <p>6 in Interview Magazine, was marked for</p> <p>7 identification, as of this date.)</p> <p>8 Q. Mr. Prince, do you recall being</p> <p>9 interviewed in Interview Magazine by Glenn</p> <p>10 O'Brien?</p> <p>11 A. Yes. Yes.</p> <p>12 Q. And that was when, do you remember?</p> <p>13 A. I believe it was early September,</p> <p>14 the actual interview.</p> <p>15 Q. And part of the interview is about</p> <p>16 the upcoming Canal Zone show?</p> <p>17 A. Yes.</p> <p>18 Q. Was that the reason the interview</p> <p>19 was set up or one of the reasons?</p> <p>20 A. No.</p> <p>21 Q. Okay. But before the interview --</p> <p>22 let me back up. Glenn O'Brien in the beginning</p> <p>23 of the interview says that in the spirit of full</p> <p>24 disclosure he is good friends with you, is that</p> <p>25 true?</p>	<p>1 Prince</p> <p>2 Q. Now, before he interviewed you isn't</p> <p>3 it true that he asked you if you could get him</p> <p>4 images of the paintings that were going to be</p> <p>5 displayed at the Canal Zone exhibition?</p> <p>6 A. He asked me that?</p> <p>7 Q. Yes.</p> <p>8 A. I don't recall.</p> <p>9 Q. Do you see on the very first page of</p> <p>10 this interview beneath -- there's a photograph,</p> <p>11 is that a photograph of you?</p> <p>12 A. Yes.</p> <p>13 Q. There are it looks like five images?</p> <p>14 A. Mm-hmm, yes.</p> <p>15 Q. And those, all five of those are</p> <p>16 paintings of yours that were on display at the</p> <p>17 Canal Zone exhibition at the Gagosian Gallery in</p> <p>18 November-December 2008?</p> <p>19 A. Yes.</p> <p>20 Q. And do you know how he got them?</p> <p>21 A. No, I don't.</p> <p>22 Q. Or how Interview Magazine got them?</p> <p>23 A. No, I don't.</p> <p>24 Q. Can you tell me by looking at those,</p> <p>25 at the first page of Exhibit 28, the name of the</p>



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<p style="text-align: center;">245</p> <p>1 Prince</p> <p>2 first painting, the one beneath your image to</p> <p>3 the left?</p> <p>4 A. That's a detail of the painting. Is</p> <p>5 that -- it could be James Brown's Disco Ball</p> <p>6 maybe.</p> <p>7 Q. Did you -- who came up with the</p> <p>8 titles for these paintings?</p> <p>9 A. I did.</p> <p>10 Q. All by yourself?</p> <p>11 A. Yes.</p> <p>12 Q. The one to the right is a detail</p> <p>13 from what painting, can you tell us?</p> <p>14 A. I can't recall that title.</p> <p>15 Q. And then the one -- I'm going</p> <p>16 counter-clockwise. The one beneath that,</p> <p>17 there's a woman, I don't know, it looks like</p> <p>18 she's bending over, maybe in water. The one on</p> <p>19 the lower right, that's a detail from which</p> <p>20 painting?</p> <p>21 A. I think that's called On the Beach,</p> <p>22 or On the Beach On the Beach, I'm not quite --</p> <p>23 but it's something about on the beach.</p> <p>24 Q. Or it could be The Ocean Club,</p> <p>25 right?</p>	<p style="text-align: center;">247</p> <p>1 Prince</p> <p>2 paintings were sold?</p> <p>3 A. I believe -- I believe one of these</p> <p>4 five paintings were sold. In fact, I'm pretty</p> <p>5 sure.</p> <p>6 Q. Which one?</p> <p>7 A. If it's James Brown -- the one in</p> <p>8 the upper left-hand corner.</p> <p>9 Q. And was that sold for 2.7-million</p> <p>10 dollars?</p> <p>11 A. No. No. Actually, it wasn't sold,</p> <p>12 it was traded -- I traded that for another</p> <p>13 painting.</p> <p>14 Q. And who did you trade it to?</p> <p>15 A. Larry Gagosian.</p> <p>16 Q. For a Larry Rivers painting?</p> <p>17 A. Yes. Part -- I mean it was part of</p> <p>18 a Larry Rivers trade, this painting.</p> <p>19 Q. The Larry Rivers painting is Dying</p> <p>20 and Dead Veteran?</p> <p>21 A. Yes.</p> <p>22 Q. Do you know the value of it?</p> <p>23 A. I think -- I think he was talking</p> <p>24 about around 2-million dollars at the time.</p> <p>25 Q. But Larry Rivers was dead then,</p>
<p style="text-align: center;">246</p> <p>1 Prince</p> <p>2 MS. BART: Objection, form.</p> <p>3 MR. HAYES: Objection to form.</p> <p>4 A. Oh, The Ocean Club, yes, that's</p> <p>5 true.</p> <p>6 Q. It is The Ocean Club, right.</p> <p>7 And The Ocean Club is a hotel in</p> <p>8 Paradise Island?</p> <p>9 A. Ocean Club was a club on Chambers</p> <p>10 Street that was in operation approximately 1979,</p> <p>11 1980.</p> <p>12 Q. Chambers Street in Manhattan?</p> <p>13 A. Yes.</p> <p>14 Q. And is that what you named it after?</p> <p>15 A. Yes.</p> <p>16 Q. The one to the left of that in the</p> <p>17 middle lower -- the middle, the lower row, what</p> <p>18 is that an image from?</p> <p>19 A. That's a detail of a painting I</p> <p>20 believe is called Cheese and Crackers.</p> <p>21 Q. And finally the one to the left of</p> <p>22 it?</p> <p>23 A. Detail of an image called Ding Dong</p> <p>24 the Witch is Dead.</p> <p>25 Q. Do you know if any of those</p>	<p style="text-align: center;">248</p> <p>1 Prince</p> <p>2 right?</p> <p>3 A. Yes.</p> <p>4 Q. So who was talking, Mr. Gagosian?</p> <p>5 A. I'm sorry?</p> <p>6 Q. Who was talking about 2-million</p> <p>7 dollars? You said he.</p> <p>8 A. Oh, Larry. Larry Gagosian was</p> <p>9 talking about it.</p> <p>10 Q. Are these titles that you came up</p> <p>11 with an important component of these paintings?</p> <p>12 MS. BART: Objection, form.</p> <p>13 MR. HAYES: Objection as to form</p> <p>14 too.</p> <p>15 A. I would like to think so, yes.</p> <p>16 Again, it's speculative.</p> <p>17 Q. But you have trouble remembering the</p> <p>18 names of the paintings?</p> <p>19 A. I think I just named them pretty</p> <p>20 close. The Ocean Club I was off a little bit.</p> <p>21 It did have something to do with a beach.</p> <p>22 As I said, I would like to think</p> <p>23 that they -- they're important. But they're</p> <p>24 not -- I think they help in the transformation</p> <p>25 of and they're part of the process in</p>



<p style="text-align: center;">249</p> <p>1 Prince</p> <p>2 recontextualizing the image.</p> <p>3 Yeah, I would have to say giving</p> <p>4 them -- I think titles for me are very</p> <p>5 important. I guess I'm answering your question</p> <p>6 because I don't know if they're important to</p> <p>7 other people. But to me they are.</p> <p>8 Q. And how do the titles inform us</p> <p>9 about the subject and meaning of the paintings</p> <p>10 in the Canal Zone exhibition?</p> <p>11 A. I think they create a certain kind</p> <p>12 of isolation and removal and set up a kind of</p> <p>13 another type of story. It's -- it creates</p> <p>14 another type of subtext that you can read into</p> <p>15 the painting.</p> <p>16 Like James Brown's Disco Ball, I</p> <p>17 think it's poetry. It's a great way to describe</p> <p>18 the painting. It removes the image from its</p> <p>19 original intent totally.</p> <p>20 I don't believe any of the images in</p> <p>21 this particular book Yes Rasta had anything to</p> <p>22 do with James Brown. However, my painting now</p> <p>23 does. I think that's one way in which a title</p> <p>24 helps makes my work different and it makes it</p> <p>25 into another -- gives it another reading.</p>	<p style="text-align: center;">251</p> <p>1 Prince</p> <p>2 A. In the painting. I believe -- I</p> <p>3 believe those images, the bodies are kind of</p> <p>4 moving to the type of music that maybe James</p> <p>5 Brown created.</p> <p>6 Q. Okay. And what about Cheese and</p> <p>7 Crackers, what does that have to do with that</p> <p>8 painting?</p> <p>9 A. Cheese and Crackers is probably --</p> <p>10 has to do with the middle image, which has</p> <p>11 remnants of a De Kooning head. That's a --</p> <p>12 that's what I would call a painting that's a</p> <p>13 bridge painting between De Kooning paintings and</p> <p>14 the Canal Zone paintings.</p> <p>15 Q. Are you talking about the woman with</p> <p>16 her legs spread?</p> <p>17 A. Yes, the woman with her legs open</p> <p>18 and she's waving. And I just felt like Cheese</p> <p>19 and Crackers was a way to describe her</p> <p>20 expression.</p> <p>21 Q. How so?</p> <p>22 A. As I said, it's a very light kind of</p> <p>23 fun, hi-how-are-you type of expression. You</p> <p>24 know, they're the sort of -- they represent a</p> <p>25 kind of a band. Every painting basically</p>
<p style="text-align: center;">250</p> <p>1 Prince</p> <p>2 Q. Okay. So what does this painting in</p> <p>3 the left-hand corner of Exhibit 28 of the first</p> <p>4 page, what does it have to do with James Brown?</p> <p>5 A. I believe at the time I had just had</p> <p>6 bought James Brown's disco ball at auction that</p> <p>7 day that I named the painting.</p> <p>8 Q. Okay.</p> <p>9 A. And I believe I had just finished</p> <p>10 the painting. And I think sometimes titles --</p> <p>11 it's kind of like when worlds collide, you get</p> <p>12 very lucky sometimes in terms of the</p> <p>13 spontaneity, the happening. It's like a</p> <p>14 performance.</p> <p>15 Q. Well, is James Brown's disco ball</p> <p>16 the subject of that particular painting?</p> <p>17 A. I think so.</p> <p>18 Q. Is there a disco ball in that</p> <p>19 painting?</p> <p>20 A. I think there are probably -- it's</p> <p>21 only a detail, but I think there's probably --</p> <p>22 to my way I would interpret it, there's probably</p> <p>23 five disco balls in that painting.</p> <p>24 Q. In this segment or in the other part</p> <p>25 of this --</p>	<p style="text-align: center;">252</p> <p>1 Prince</p> <p>2 represents a kind of a band. And --</p> <p>3 Q. Do you mean a musical band?</p> <p>4 A. Yeah, a musical band. I mean that's</p> <p>5 one of the things that I was thinking of when I</p> <p>6 was making these paintings.</p> <p>7 Q. So are we still with the</p> <p>8 post-apocalyptic theme but with bands?</p> <p>9 A. We're with all those kinds of</p> <p>10 things. And I think that my naming them Cheese</p> <p>11 and Crackers, maybe that was the name of the</p> <p>12 band rather than the name of the painting. And</p> <p>13 I think that a lot of bands come up with crazy</p> <p>14 names.</p> <p>15 Q. Right.</p> <p>16 A. I mean these are some of the things</p> <p>17 that I'm thinking about.</p> <p>18 Q. What about The Ocean Club, what's</p> <p>19 the significance of that name, that title?</p> <p>20 A. I think The Ocean Club was --</p> <p>21 primarily had to do with the female figure, the</p> <p>22 way that female figure got repeated in the</p> <p>23 image. She was at the beach.</p> <p>24 Q. Was that one of the lesbians?</p> <p>25 A. No, that's not the lesbian painting.</p>



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<p style="text-align: center;">261</p> <p>1 Prince</p> <p>2 Q. I thought you were a Red Sox fan?</p> <p>3 A. I never said I was a Red Sox fan.</p> <p>4 Q. You don't know who Manny Ramirez is?</p> <p>5 A. No, I don't.</p> <p>6 MS. BART: What does this have to do</p> <p>7 with this case?</p> <p>8 Q. All right. Now, you say you picked</p> <p>9 up a book on them?</p> <p>10 A. In -- literally, yes, I picked up a</p> <p>11 book.</p> <p>12 Q. Okay. And that's the Yes Rasta</p> <p>13 book --</p> <p>14 A. Yes.</p> <p>15 Q. -- that we've been talking about,</p> <p>16 that's in front of you? Okay.</p> <p>17 Now, down a few lines you said, But</p> <p>18 I love the look, comma, and I love the dreads.</p> <p>19 What did you mean by that?</p> <p>20 A. What do you mean what do I mean by</p> <p>21 that? I just said it. I love the look and I</p> <p>22 love the dreads.</p> <p>23 Q. What did you love about the look?</p> <p>24 A. I love the way they looked.</p> <p>25 Q. How so?</p>	<p style="text-align: center;">263</p> <p>1 Prince</p> <p>2 A. Had I ever seen pictures?</p> <p>3 Q. Yes.</p> <p>4 MR. HAYES: Objection to the form.</p> <p>5 A. When?</p> <p>6 Q. Ever?</p> <p>7 A. I'm sure I had.</p> <p>8 Q. And didn't you say had you a book</p> <p>9 about Bob Marley with Rastas in it?</p> <p>10 A. I think I went out and tried to buy</p> <p>11 a book at the same time.</p> <p>12 Q. Right. So what was it about these</p> <p>13 pictures that made you want to copy them?</p> <p>14 MS. BART: Objection to form.</p> <p>15 MR. HAYES: Objection, form.</p> <p>16 A. I think, again, it's that notion</p> <p>17 about when worlds collide. I happened to be</p> <p>18 listening to Radiodread. Do you know who</p> <p>19 Radiodread is? It's a band that sampled and</p> <p>20 replicated Radiohead's album, and did it in a</p> <p>21 reggae manner. And my son, my stepson was</p> <p>22 playing it on vacation in St. Barth.</p> <p>23 Q. When you found this book?</p> <p>24 A. And I was very much into that album.</p> <p>25 I played it over and over. And then the next</p>
<p style="text-align: center;">262</p> <p>1 Prince</p> <p>2 A. I don't know how to answer that</p> <p>3 question, how so. I love the way they looked.</p> <p>4 I mean that's usually I get -- that's how I</p> <p>5 respond to images.</p> <p>6 I think maybe I liked the way that</p> <p>7 they were so different.</p> <p>8 Q. Than what?</p> <p>9 A. Than myself. I don't have dreads.</p> <p>10 I wish I could. I mean I think that was some of</p> <p>11 the thinking or some of the -- perhaps it goes</p> <p>12 back to the girlfriends. The reason why I took</p> <p>13 the girlfriends is I wanted to be a girlfriend.</p> <p>14 I think some of the attraction that</p> <p>15 I had to some of these people who looked like</p> <p>16 Rastas in St. Barth, hanging out at the bars, I</p> <p>17 said to myself, gee, I wish I could look like</p> <p>18 that some day.</p> <p>19 So if I can't look like that maybe</p> <p>20 I should paint them. Maybe that's a way to</p> <p>21 substitute that desire. I mean that's the only</p> <p>22 way I can answer that love question.</p> <p>23 Q. All right. But had you ever seen --</p> <p>24 I think you testified about this before lunch,</p> <p>25 had you ever seen pictures of Rastas before?</p>	<p style="text-align: center;">264</p> <p>1 Prince</p> <p>2 day I walk into a bookstore and what do I pick</p> <p>3 up, a book that had pictures of Rastas in them.</p> <p>4 I said to myself, hmm, something is in the air.</p> <p>5 And that's my -- that's how I</p> <p>6 react -- that's how things happen. It was pure</p> <p>7 chance.</p> <p>8 Q. Okay.</p> <p>9 A. And it's a great -- I thought that</p> <p>10 was a great marriage, the fact that I was</p> <p>11 listening to Radiodread, which I loved, and I</p> <p>12 saw what I considered these really kind of</p> <p>13 interesting documents.</p> <p>14 Q. When you say interesting documents,</p> <p>15 are you talking about the photos in Yes Rasta?</p> <p>16 A. Yes.</p> <p>17 Q. What was interesting about them?</p> <p>18 A. I think I've already said that.</p> <p>19 I'll say it again. I liked -- I was looking for</p> <p>20 black-and-white images of figures.</p> <p>21 Q. Why?</p> <p>22 A. I wanted to put them next to my</p> <p>23 De Kooning women.</p> <p>24 Q. Are there any De Kooning women in</p> <p>25 the Canal Zone book?</p>

<p style="text-align: center;">265</p> <p>1 Prince</p> <p>2 A. Yes, there's one right on the cover.</p> <p>3 I think she's off to the right. And I think we</p> <p>4 just talked about the one in Interview Magazine.</p> <p>5 I think you were talking about Cheese and</p> <p>6 Crackers.</p> <p>7 Q. Right. Right.</p> <p>8 A. That's a De Kooning woman right</p> <p>9 here.</p> <p>10 Q. Okay.</p> <p>11 A. She has a face that was painted by</p> <p>12 De Kooning. And that was one of the very --</p> <p>13 that was painted in June of '08. As I said, it</p> <p>14 was a bridge painting. I was trying to channel</p> <p>15 my inner De Kooning in that painting.</p> <p>16 Q. In Cheese and Crackers?</p> <p>17 A. In Cheese and Crackers.</p> <p>18 Q. Now, getting back to the interview,</p> <p>19 you said that you liked -- we just looked at</p> <p>20 this. When you said I love the book, I love the</p> <p>21 dreads, so I just started fooling around with</p> <p>22 this book, drawing it like I did with the</p> <p>23 De Kooning paintings.</p> <p>24 You've already explained that, you</p> <p>25 wrote right in the first book, right?</p>	<p style="text-align: center;">267</p> <p>1 Prince</p> <p>2 There's no -- there's no plan.</p> <p>3 Q. Right. Is there a message?</p> <p>4 A. There certainly is a message.</p> <p>5 Q. What is the message?</p> <p>6 A. The message is to make great art</p> <p>7 that makes people feel good. That's my message.</p> <p>8 Now, I know it might not be someone else's, but</p> <p>9 I believe that's also the way I've always</p> <p>10 defined art.</p> <p>11 Q. Now, you're talking again about the</p> <p>12 guy who lands in St. Barth's. This is on the</p> <p>13 next page. And it says so he and his relatives</p> <p>14 take over a hotel, they take over Eden Rock. Do</p> <p>15 you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Now, there actually are no pictures</p> <p>18 in the Canal Zone paintings of the guy who got</p> <p>19 off the plane and his relatives, is that right</p> <p>20 or not right?</p> <p>21 MR. HAYES: Objection to the form.</p> <p>22 A. There are no pictures of Charlie</p> <p>23 Company and --</p> <p>24 Q. Right.</p> <p>25 A. There might be, there might not be.</p>
<p style="text-align: center;">266</p> <p>1 Prince</p> <p>2 A. Yes.</p> <p>3 Q. And then it says, Then I wrote the</p> <p>4 proposal, which I pitched to Hollywood, it was</p> <p>5 called Eden Rock. And then it goes through the</p> <p>6 story about the guy who gets off the plane.</p> <p>7 A. Yes.</p> <p>8 Q. And look at the next page.</p> <p>9 So were you saying that the</p> <p>10 Yes Rasta book inspired your idea for the pitch?</p> <p>11 A. No.</p> <p>12 Q. No? Okay.</p> <p>13 A. What was inspiring was, again,</p> <p>14 another element in this kind of crazy marriage.</p> <p>15 The day before I went in and found this book I</p> <p>16 noticed these cruise -- these monumental cruise</p> <p>17 ships.</p> <p>18 Q. In St. Barth's?</p> <p>19 A. In St. Barth. And I started looking</p> <p>20 at them and saying there's another thing that</p> <p>21 should be in my screenplay. And yes, who should</p> <p>22 be on that boat is a reggae band. So I had that</p> <p>23 in my head.</p> <p>24 So I think what inspires what, it's</p> <p>25 all very organic here. It's all very fluid.</p>	<p style="text-align: center;">268</p> <p>1 Prince</p> <p>2 I believe there aren't of Mr. Company.</p> <p>3 Q. He's supposed to be a white guy,</p> <p>4 right?</p> <p>5 A. He's a white guy.</p> <p>6 No, I believe his daughter -- I</p> <p>7 think only his daughter shows up in one of the</p> <p>8 paintings later.</p> <p>9 Q. Then you say the Rastas escaped from</p> <p>10 their cruise ship and they take over their own</p> <p>11 hotel, the Manapany, right?</p> <p>12 A. Yes.</p> <p>13 Q. And are there any pictures of them</p> <p>14 taking over the Manapany in the Canal Zone book?</p> <p>15 A. No.</p> <p>16 Q. And then you said and then there's a</p> <p>17 lesbian group of girls who escape and take over</p> <p>18 their own hotel, the Guanahani?</p> <p>19 A. Yes.</p> <p>20 Q. And those are those four literary</p> <p>21 artistic women from the early 20th Century?</p> <p>22 A. Yes.</p> <p>23 Q. And there's a painting of them?</p> <p>24 A. Yes.</p> <p>25 Q. And then you said -- this is to</p>



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<p style="text-align: center;">277</p> <p>1 Prince</p> <p>2 about something he said in an interview.</p> <p>3 He said and then my contribution to the</p> <p>4 Rastas was this introduction of the</p> <p>5 guitar.</p> <p>6 BY MR. BROOKS:</p> <p>7 Q. Do you see that?</p> <p>8 A. Yes.</p> <p>9 MS. BART: Still objection.</p> <p>10 Q. Was the guitar one of the</p> <p>11 ingredients in these paintings?</p> <p>12 A. Yes.</p> <p>13 MS. BART: I'm still objecting.</p> <p>14 MR. BROOKS: Fine.</p> <p>15 BY MR. BROOKS:</p> <p>16 Q. Were the naked women an ingredient</p> <p>17 in the paintings?</p> <p>18 A. Yes.</p> <p>19 Q. Were the Rastas --</p> <p>20 MS. BART: Objection.</p> <p>21 (Interruption by reporter.)</p> <p>22 BY MR. BROOKS:</p> <p>23 Q. Were the guitars that you introduced</p> <p>24 an ingredient in these paintings?</p> <p>25 MS. BART: Objection, form.</p>	<p style="text-align: center;">279</p> <p>1 Prince</p> <p>2 Rastas, or the tropical foliage, the subject</p> <p>3 matter of the paintings?</p> <p>4 MS. BART: Objection, form, compound</p> <p>5 question.</p> <p>6 MR. HAYES: Objection, form.</p> <p>7 Q. You can answer.</p> <p>8 A. Were any of those -- any of those</p> <p>9 one -- I believe the primary subject, the</p> <p>10 primary ingredient is probably the guitar.</p> <p>11 Q. Okay. And what's the primary</p> <p>12 subject of the paintings?</p> <p>13 MR. HAYES: Objection to form.</p> <p>14 MS. BART: Same.</p> <p>15 A. I think the guitar. The guitar is a</p> <p>16 brilliant, brilliant contribution.</p> <p>17 Q. And, again, I know you testified to</p> <p>18 this before, where did you find the guitars</p> <p>19 again? I'm not trying to trip you up. Was it</p> <p>20 one book or several books? I don't remember.</p> <p>21 A. One source was Guitar Magazine.</p> <p>22 Q. Okay. So there's kind of a</p> <p>23 rock-and-roll theme to these paintings?</p> <p>24 MR. HAYES: Objection to form.</p> <p>25 MS. BART: Same.</p>
<p style="text-align: center;">278</p> <p>1 Prince</p> <p>2 MR. HAYES: Objection, form.</p> <p>3 Q. You can answer.</p> <p>4 A. Yes.</p> <p>5 Q. Were the naked women that you found</p> <p>6 in various places an ingredient in the</p> <p>7 paintings?</p> <p>8 MS. BART: Objection, form.</p> <p>9 MR. HAYES: Objection, form.</p> <p>10 A. Yes.</p> <p>11 Q. Were the Rastas an ingredient in the</p> <p>12 paintings?</p> <p>13 MS. BART: Objection, form.</p> <p>14 MR. HAYES: Objection, form.</p> <p>15 A. Yes.</p> <p>16 Q. Was the tropical foliage in the</p> <p>17 background behind the Rastas in the Yes Rasta</p> <p>18 photos, was that an ingredient in the paintings?</p> <p>19 A. Yes.</p> <p>20 MS. BART: Objection, form.</p> <p>21 A. Sorry.</p> <p>22 Q. What's the answer?</p> <p>23 A. Yes.</p> <p>24 Q. Were the paintings -- were any of</p> <p>25 those things, the guitars, the naked women, the</p>	<p style="text-align: center;">280</p> <p>1 Prince</p> <p>2 Q. You can answer.</p> <p>3 A. I would say heavy metal, but, yes,</p> <p>4 rock and roll.</p> <p>5 Q. Sorry. Okay.</p> <p>6 Can you look at page 77, which is</p> <p>7 I think the last page of this interview.</p> <p>8 I'm going to read this answer at the</p> <p>9 top. Well, I should read the question on the</p> <p>10 previous page. Why did you get sick of doing</p> <p>11 the De Kooning paintings? It seemed like you</p> <p>12 did more nurse paintings than De Koonings.</p> <p>13 And then you answered, Yeah, I did</p> <p>14 more nurses, but with De Koonings, I'd just done</p> <p>15 it. I didn't like the idea that in the end I</p> <p>16 had to pay attention to someone else's work.</p> <p>17 And I wanted to get rid of the color. So the</p> <p>18 thing is that, you know, two years of doing the</p> <p>19 De Koonings was enough. It was enough of my</p> <p>20 attention. The Rastas came really fast. And</p> <p>21 they're going to be over really fast too.</p> <p>22 Can you explain what you meant when</p> <p>23 you said the Rastas came really fast and they're</p> <p>24 going to be over really fast too?</p> <p>25 A. The Rasta -- the Canal Zone</p>

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<p style="text-align: center;">297</p> <p>1 Prince</p> <p>2 substituted a Ramones song.</p> <p>3 Q. But you find this to be an apt</p> <p>4 description of your paintings in the Canal Zone</p> <p>5 exhibition?</p> <p>6 MS. BART: Objection to form.</p> <p>7 A. It's not necessarily the way I would</p> <p>8 have described it had they asked me to write the</p> <p>9 press release. But I don't write press releases</p> <p>10 and I don't read them.</p> <p>11 Q. And is this the first time --</p> <p>12 A. I find them -- sorry.</p> <p>13 MS. BART: No, you were talking. He</p> <p>14 interrupted you.</p> <p>15 Q. Go ahead.</p> <p>16 A. I find press releases incredibly</p> <p>17 silly and boring, and I just don't -- I've never</p> <p>18 wanted anything -- because they're really just</p> <p>19 trying to hype the work. And I don't</p> <p>20 particularly like to get involved in that.</p> <p>21 Q. And, again, is this the first time</p> <p>22 you're seeing this press release?</p> <p>23 A. This is the first time I'm seeing</p> <p>24 this.</p> <p>25 Q. On the last page it says that mining</p>	<p style="text-align: center;">299</p> <p>1 Prince</p> <p>2 the ego, but I guess authorship is a fairly</p> <p>3 accurate and it's an okay word.</p> <p>4 I mean it's very -- all it is is</p> <p>5 philosophical. And, you know, it's sort of like</p> <p>6 someone writing a term paper, you know, it's</p> <p>7 academic. You know, it's something that takes</p> <p>8 place in October Magazine, which I don't</p> <p>9 particularly like and Columbia University and,</p> <p>10 you know, it's -- I'm much more of a -- well,</p> <p>11 I'm much more interested in trying to make art</p> <p>12 that stands up next to Picasso, De Kooning, and</p> <p>13 Warhol. That's what I'm interested in.</p> <p>14 MR. BROOKS: Let's mark as exhibit,</p> <p>15 Plaintiff's Exhibit 32, a two-page</p> <p>16 document GGP004298 and 99.</p> <p>17 (Plaintiff's Exhibit 32, two-page</p> <p>18 document, was marked for identification,</p> <p>19 as of this date.)</p> <p>20 Q. Before we get to this, I just -- I</p> <p>21 forgot to ask you a follow-up question before.</p> <p>22 Do you remember you were looking at</p> <p>23 that press release that mentioned Helter Skelter</p> <p>24 and Guernica and Heart of Darkness?</p> <p>25 A. Yes.</p>
<p style="text-align: center;">298</p> <p>1 Prince</p> <p>2 images from mass media, advertising, and</p> <p>3 entertainment since the late '70s, Prince has</p> <p>4 redefined the concepts of authorship, ownership,</p> <p>5 and aura. Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Do you agree that you've redefined</p> <p>8 the concept of authorship?</p> <p>9 A. I would hope that I've had some hand</p> <p>10 in redefining the issues that have to do with</p> <p>11 authorship.</p> <p>12 Q. How so?</p> <p>13 A. It has to do with that concept that</p> <p>14 people really believe artists are special and</p> <p>15 they have something special to say. There was a</p> <p>16 time in the late '70s when I didn't go along</p> <p>17 with that concept. And there was that essay by</p> <p>18 Roland Barthes called Death of an Author, and it</p> <p>19 was just an issue that was going around town.</p> <p>20 And I think that I got caught up in</p> <p>21 it and I got involved in it and I sort of</p> <p>22 decided to do something about it in my own</p> <p>23 particular little way.</p> <p>24 And hopefully, yes, I hope that --</p> <p>25 you know, I would have called it the death of</p>	<p style="text-align: center;">300</p> <p>1 Prince</p> <p>2 Q. Do you think that's a more apt</p> <p>3 description of these paintings in the Canal Zone</p> <p>4 exhibit than Manet's Luncheon On the Grass?</p> <p>5 MS. BART: Objection to form.</p> <p>6 MR. HAYES: Objection to form.</p> <p>7 Q. You can answer.</p> <p>8 A. Manet on the Grass isn't a bad</p> <p>9 stretch.</p> <p>10 Q. Is or isn't? I didn't hear.</p> <p>11 A. I think it's a fairly good stretch</p> <p>12 as a description. In comparison to Heart of</p> <p>13 Darkness, Colonel Kurtz, Apocalypse Now.</p> <p>14 Q. The movie?</p> <p>15 A. Yeah, I mean it's -- they're all --</p> <p>16 that's the great thing about making this kind of</p> <p>17 art is that it has all these -- it can provide</p> <p>18 different interpretations.</p> <p>19 Q. So it can be like Manet's Déjeuner</p> <p>20 sur l'herbe, Lunch on the Grass, it can be like</p> <p>21 Guernica?</p> <p>22 MR. HAYES: Objection to form.</p> <p>23 MS. BART: Join.</p> <p>24 Q. Sticking to paintings?</p> <p>25 A. I wouldn't -- I would rather have</p>



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<p style="text-align: center;">301</p> <p>1 Prince</p> <p>2 had Picasso's Mademoiselle d'Avignon. I think</p> <p>3 it's a much more accurate painting because of</p> <p>4 the masks and the revolutionary techniques and</p> <p>5 the way he appropriated African imagery in that</p> <p>6 painting than the Manet.</p> <p>7 Also, it reminds me of the bands,</p> <p>8 that Mademoiselle d'Avignon.</p> <p>9 Q. Okay. I'm going to ask you to look</p> <p>10 at the back of what's been marked as Exhibit 42,</p> <p>11 which is the Canal Zone book, and tell me how</p> <p>12 many --</p> <p>13 MR. HAYES: I'm just taking off my</p> <p>14 microphone so I can get it for you.</p> <p>15 Q. Tell me how many paintings are</p> <p>16 listed in the book. And we're starting with</p> <p>17 page C210. You don't have to name them, I just</p> <p>18 want you to tell me how many.</p> <p>19 MS. BART: All of them or --</p> <p>20 MR. BROOKS: All together.</p> <p>21 MR. HAYES: You want him to count</p> <p>22 them?</p> <p>23 MR. BROOKS: No, they're numbered.</p> <p>24 You don't have to count them.</p> <p>25 MS. BART: Right. But not all of</p>	<p style="text-align: center;">303</p> <p>1 Prince</p> <p>2 itself, could you take a look at Exhibit 32</p> <p>3 which has just been handed to you?</p> <p>4 A. Yes.</p> <p>5 Q. Some kind of schematic of your show?</p> <p>6 A. It looks like it's some kind of the</p> <p>7 way we positioned --</p> <p>8 Q. Exactly.</p> <p>9 A. -- the paintings.</p> <p>10 Q. Yes. And so if you add these up,</p> <p>11 again, not counting the Dear Mary, the car, it's</p> <p>12 part of a sculpture, part of a car. It looks</p> <p>13 like there were only 15 paintings actually</p> <p>14 exhibited during your show, is that correct?</p> <p>15 A. I believe I -- yes, I count 15</p> <p>16 paintings on this chart.</p> <p>17 Q. And now I'm asking you a slightly</p> <p>18 different question. Is that your recollection</p> <p>19 of how many paintings were actually exhibited at</p> <p>20 the show?</p> <p>21 MR. HAYES: Objection as to form.</p> <p>22 A. Is that my recollection? I never</p> <p>23 really thought about it until you asked me the</p> <p>24 question. I'm assuming, now that I look at this</p> <p>25 chart, I can definitely say -- I believe I can</p>
<p style="text-align: center;">302</p> <p>1 Prince</p> <p>2 them are at issue in this lawsuit.</p> <p>3 MR. BROOKS: I didn't ask him --</p> <p>4 well, that's -- I'm not going to argue</p> <p>5 with you about what's at issue in this</p> <p>6 lawsuit. I'm asking him how many</p> <p>7 paintings are in the book. That's all.</p> <p>8 A. Well, it says here -- how many</p> <p>9 paintings are in the Canal Zone exhibition?</p> <p>10 Q. In that book.</p> <p>11 A. It's funny, they didn't list -- I</p> <p>12 just realized they didn't list a work.</p> <p>13 Q. Yeah, they didn't list a few. But</p> <p>14 I'm just asking you how many are listed in the</p> <p>15 book?</p> <p>16 A. 22.</p> <p>17 Q. Now, there's a 23rd thing, but</p> <p>18 that's not a painting at all, right, that's like</p> <p>19 a car hood or something?</p> <p>20 A. Yes.</p> <p>21 Q. So if we're talking about paintings</p> <p>22 it lists 22 paintings, correct?</p> <p>23 A. I believe so, yes. I count 22. I</p> <p>24 see 22.</p> <p>25 Q. Right. Now, the actual exhibition</p>	<p style="text-align: center;">304</p> <p>1 Prince</p> <p>2 kind of remember where every painting was hung.</p> <p>3 And I believe, yes, it was 15 paintings.</p> <p>4 Q. If you look on the second page at</p> <p>5 the top, this is that painting we've been</p> <p>6 talking about about the four lesbians who took</p> <p>7 over the Guanahani?</p> <p>8 A. Yes.</p> <p>9 Q. And the first one is Djuna,</p> <p>10 D-J-U-N-A, Barnes.</p> <p>11 A. Djuna Barnes.</p> <p>12 Q. And then Natalie Barney?</p> <p>13 A. Natalie Barney.</p> <p>14 Q. Renée Vivien?</p> <p>15 A. And Romaine Brooks.</p> <p>16 (Clarification by reporter.)</p> <p>17 Q. Romaine Brooks?</p> <p>18 A. They have it spelled wrong here.</p> <p>19 Q. I know.</p> <p>20 Now, a number of these paintings</p> <p>21 that are in Exhibit 32 are not listed in the</p> <p>22 book that you were just looking at where it</p> <p>23 lists 22 paintings, correct?</p> <p>24 For instance, the very first one</p> <p>25 Pumpsie Green is not listed, right?</p>



<p>329</p> <p>1 Prince</p> <p>2 Q. And, again, the inserts are those</p> <p>3 smaller pages that are in this book?</p> <p>4 A. Yes.</p> <p>5 Q. So if you go now to page C118?</p> <p>6 A. Yes.</p> <p>7 Q. This guy on the donkey, do you</p> <p>8 consider that to be an artwork that's in this</p> <p>9 book?</p> <p>10 MR. HAYES: Objection to the form of</p> <p>11 the question, among other things, it's not</p> <p>12 one of the smaller inserts that's referred</p> <p>13 to, I don't think.</p> <p>14 MR. BROOKS: I'm sorry?</p> <p>15 MR. HAYES: You have the book in</p> <p>16 front of you. You asked the witness about</p> <p>17 smaller inserts?</p> <p>18 MR. BROOKS: No, no, no. This is</p> <p>19 page C118. It's not an insert.</p> <p>20 MR. HAYES: Oh.</p> <p>21 A. And the question?</p> <p>22 Q. Is this one of the artworks in this</p> <p>23 book, this image on C118?</p> <p>24 MR. HAYES: Object to the form.</p> <p>25 A. No.</p>	<p>331</p> <p>1 Prince</p> <p>2 You'll have to turn to the previous</p> <p>3 page I guess C116.</p> <p>4 MR. HAYES: Yep.</p> <p>5 A. Got it.</p> <p>6 Q. So C118 is taken from C116, right?</p> <p>7 A. Yes.</p> <p>8 Q. And are you sure that that's a</p> <p>9 painting and not a reproduction of this</p> <p>10 photograph from the Yes Rasta book?</p> <p>11 A. It's a painting.</p> <p>12 Q. In what sense?</p> <p>13 A. Based on a reproduction that I found</p> <p>14 in this Yes Rasta book.</p> <p>15 Q. Which you're looking at now, right?</p> <p>16 A. It's a lot of -- this is what I was</p> <p>17 talking about earlier with this new technique,</p> <p>18 this new medium that transferred his work, which</p> <p>19 I don't think lost any of its original intent,</p> <p>20 because my work here is completely a different</p> <p>21 message and medium, it's a completely different</p> <p>22 look, and it's a completely different</p> <p>23 application, and it's a new way of collaging.</p> <p>24 There are several elements.</p> <p>25 There's also an image from Eric</p>
<p>330</p> <p>1 Prince</p> <p>2 Q. What is it?</p> <p>3 A. It's part of an artwork that's in</p> <p>4 the book. It's a detail.</p> <p>5 Q. Are you the copyright owner, as you</p> <p>6 understand it, of this image on C118?</p> <p>7 MR. HAYES: Objection as to form.</p> <p>8 MS. BART: Join.</p> <p>9 A. My answer to that is I guess so.</p> <p>10 Q. Now, was this photo taken from the</p> <p>11 Yes Rasta book?</p> <p>12 MR. HAYES: Object to the form.</p> <p>13 A. No, it's a painting. I mean I made</p> <p>14 a painting. Anyway, no.</p> <p>15 Q. This is a painting?</p> <p>16 A. Yes.</p> <p>17 Q. How did you make the painting, with</p> <p>18 a paint brush?</p> <p>19 A. Yes.</p> <p>20 MS. BART: Objection, form, and</p> <p>21 argumentative.</p> <p>22 Q. I'm going to show you the photo of</p> <p>23 this man on the donkey from the Yes Rasta book.</p> <p>24 A. Can we see the whole painting?</p> <p>25 Q. Of course.</p>	<p>332</p> <p>1 Prince</p> <p>2 Kroll. There's an image of a guitar from</p> <p>3 George -- that's George Harrison's guitar with</p> <p>4 his hands. And there are -- this painting on</p> <p>5 top, it's not a photograph, it's an inkjet image</p> <p>6 on canvas, which is a fairly new technique.</p> <p>7 And then these lozenges are painted</p> <p>8 directly on the canvas.</p> <p>9 Q. Okay. You're talking about C116,</p> <p>10 right?</p> <p>11 A. Yes, I am.</p> <p>12 Q. Now, can you turn to C118, which is</p> <p>13 in your book?</p> <p>14 A. Yes.</p> <p>15 MR. HAYES: That's the detail.</p> <p>16 A. The detail.</p> <p>17 Q. C118.</p> <p>18 A. Yes. You can see it's ripped out of</p> <p>19 the book.</p> <p>20 Q. But is it a painting or is it taken</p> <p>21 from the book?</p> <p>22 A. This is a painting. The transfer,</p> <p>23 as you can see, it was -- the reproduction was</p> <p>24 taken from the book and then collaged next to an</p> <p>25 additional image taken from the book, and it was</p>



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<p style="text-align: center;">337</p> <p>1 Prince</p> <p>2 know how else to explain it.</p> <p>3 Q. You said this has a different</p> <p>4 meaning than his photograph?</p> <p>5 A. I believe so, yeah. It has a --</p> <p>6 Q. What's the meaning that's different?</p> <p>7 MS. BART: Objection, form.</p> <p>8 MR. HAYES: Objection to form.</p> <p>9 A. I think my first reaction was a</p> <p>10 figure riding along the Nile in religious times,</p> <p>11 something that I saw and that I took a picture</p> <p>12 of years ago when I was traveling down the Nile.</p> <p>13 I was very surprised that -- it was</p> <p>14 the idea of transportation, that it's a type of</p> <p>15 transportation that I'm not familiar with.</p> <p>16 I mean that was my -- I suppose my</p> <p>17 initial -- you know, and it gets back to this</p> <p>18 idea of Back to the Garden, this kind of Adam</p> <p>19 and Eve kind of thing I was thinking about.</p> <p>20 I mean that was my -- those are my</p> <p>21 kind of -- the way I riff on an image when I</p> <p>22 first come upon it.</p> <p>23 At least this is what -- again,</p> <p>24 there's many interpretations about any</p> <p>25 particular image. But this just happens to be</p>	<p style="text-align: center;">339</p> <p>1 Prince</p> <p>2 kind of fantastic, absolutely hip, up to date,</p> <p>3 contemporary take on the music scene. And it's</p> <p>4 my way of dealing with this idea that I've</p> <p>5 always had, which are the three relationships</p> <p>6 that exist in the world, which are men and</p> <p>7 women, men and men, and women and women. It</p> <p>8 exists, therefore I try to reflect what I</p> <p>9 think what interests me.</p> <p>10 I mean I don't necessarily think</p> <p>11 there's -- I'm not trying to -- in any artwork I</p> <p>12 don't think there's any one message. I'm not a</p> <p>13 political artist. If you can tell me who the</p> <p>14 president of France was when Gauguin was in</p> <p>15 Tahiti I'll give you a thousand dollars.</p> <p>16 Politicians come and go, art comes and comes.</p> <p>17 Q. You mentioned the music scene.</p> <p>18 You'll notice in C116, the image of the</p> <p>19 Rastafarian on the donkey to the right, the one</p> <p>20 with the paint --</p> <p>21 A. The bleached out --</p> <p>22 Q. That one --</p> <p>23 A. -- which is extremely, you know, I</p> <p>24 thought about bleaching him out, getting him a</p> <p>25 little lighter.</p>
<p style="text-align: center;">338</p> <p>1 Prince</p> <p>2 mine.</p> <p>3 I know that that's not the original</p> <p>4 intent of the image, but I don't have any -- I</p> <p>5 don't have any really interest in what the</p> <p>6 original intent is because my -- because what I</p> <p>7 do is I completely try to change it into</p> <p>8 something that's completely different.</p> <p>9 Q. And just again, what is your intent,</p> <p>10 what are you changing it into?</p> <p>11 A. To make great artworks that make</p> <p>12 people feel good.</p> <p>13 Q. But is this -- let's take 116 since</p> <p>14 you seem to prefer to talk about 116.</p> <p>15 MR. HAYES: Object to the form, if</p> <p>16 there's a question.</p> <p>17 Q. Which is this painting Back to the</p> <p>18 Garden, right? Okay?</p> <p>19 A. Mm-hmm. Yes, I'm sorry.</p> <p>20 Q. What is your message or what is the</p> <p>21 meaning of this painting, what is it that you're</p> <p>22 trying to get across?</p> <p>23 A. I'm trying --</p> <p>24 MR. HAYES: Object to the form.</p> <p>25 A. As I said, I'm trying to make a</p>	<p style="text-align: center;">340</p> <p>1 Prince</p> <p>2 Q. But that's not my question.</p> <p>3 A. Oh.</p> <p>4 Q. This has a guitar, right?</p> <p>5 A. Yes.</p> <p>6 Q. So is that what you were talking</p> <p>7 about, commenting on the music scene?</p> <p>8 A. The guitar, again, is what I think</p> <p>9 my contribution is to the image, one of the</p> <p>10 contributions to this particular image, just</p> <p>11 like the mask was my contribution to the nurse</p> <p>12 paintings. Once I make some sort of connection.</p> <p>13 Now, if that hadn't been made, this</p> <p>14 guitar, this collage, which turns this -- the</p> <p>15 original intentions of this image into something</p> <p>16 completely different, obviously, he's playing</p> <p>17 the guitar now, it looks like he's playing the</p> <p>18 guitar, it looks as if he's always played the</p> <p>19 guitar, that's what my message was.</p> <p>20 Q. Okay.</p> <p>21 A. Is to sort of tell people, hey, this</p> <p>22 guy is playing the guitar.</p> <p>23 Q. Understood.</p> <p>24 A. And --</p> <p>25 Q. I'm kind of -- I don't mean to cut</p>

<p style="text-align: center;">341</p> <p>1 Prince</p> <p>2 you off, but I'm trying to finish by 6:15.</p> <p>3 A. Okay. I'm sorry.</p> <p>4 Q. I think you're answering the</p> <p>5 questions but then you seem to feel you need to</p> <p>6 give me more information.</p> <p>7 A. I'm sorry.</p> <p>8 Q. And if you have to, you have to, but</p> <p>9 I'd like to get out of here at 6:15.</p> <p>10 A. Okay.</p> <p>11 Q. So on this painting C116, we talked</p> <p>12 before about this post-apocalyptic vision?</p> <p>13 A. Yes.</p> <p>14 Q. Does this painting Back to the</p> <p>15 Garden on C116 fit into that vision?</p> <p>16 A. I think so.</p> <p>17 Q. In what way?</p> <p>18 A. They don't have much clothes on.</p> <p>19 Q. Right. Well, the women don't have</p> <p>20 any clothes on?</p> <p>21 A. He doesn't have much clothes on</p> <p>22 either. And he's riding a donkey.</p> <p>23 Q. Right, so that's post-apocalyptic --</p> <p>24 A. So you can't fill up a donkey at the</p> <p>25 gas tank.</p>	<p style="text-align: center;">343</p> <p>1 Prince</p> <p>2 point.</p> <p>3 Q. It is. No, never mind.</p> <p>4 Does it relate to this painting?</p> <p>5 A. Again, it's a reading. This could</p> <p>6 be about --</p> <p>7 Q. Taking acid at Woodstock?</p> <p>8 A. No, I didn't take acid at Woodstock.</p> <p>9 I do think it could be a reading because of the</p> <p>10 title and because Joni Mitchell wrote it.</p> <p>11 I just -- actually, it didn't occur</p> <p>12 to me until this moment that she wrote that.</p> <p>13 Q. Right. Okay. So this is supposed</p> <p>14 to be a rock-and-roll band, these four people?</p> <p>15 A. Yes. Actually --</p> <p>16 Q. And the donkey, what instrument does</p> <p>17 he play?</p> <p>18 MR. HAYES: Objection.</p> <p>19 A. He's the roadie.</p> <p>20 Q. He's the roadie? Okay.</p> <p>21 Now, take a look at this comparison</p> <p>22 that we marked as Exhibit 40 before.</p> <p>23 Now, these pages are Bates stamped</p> <p>24 at the bottom. So could you turn to 39, C00039?</p> <p>25 A. Yes.</p>
<p style="text-align: center;">342</p> <p>1 Prince</p> <p>2 Q. Right.</p> <p>3 A. Maybe that has something to do with</p> <p>4 it. I mean I don't think the original intent of</p> <p>5 that image on a donkey ever thought about</p> <p>6 filling up the donkey with a gas tank at the gas</p> <p>7 station. I don't even know if there's gas</p> <p>8 stations in Jamaica. You know, that's not my --</p> <p>9 Q. There are.</p> <p>10 A. That's not what I think about.</p> <p>11 Q. Okay.</p> <p>12 A. What I think about is how can this</p> <p>13 collage form a new kind of band, and the band is</p> <p>14 called Back to the Garden. I mean I think</p> <p>15 there's even a song by Joni Mitchell called Back</p> <p>16 to the Garden.</p> <p>17 Q. Right.</p> <p>18 A. It was at Woodstock. I see this as</p> <p>19 a kind of a Woodstock picture. I went to</p> <p>20 Woodstock --</p> <p>21 Q. And you took acid, so did Glenn</p> <p>22 O'Brien, I read that.</p> <p>23 A. -- and I took one photograph.</p> <p>24 Q. With your last remaining --</p> <p>25 A. With my -- which is an important</p>	<p style="text-align: center;">344</p> <p>1 Prince</p> <p>2 Q. And this is taken from the insert in</p> <p>3 your book?</p> <p>4 A. Yes. No, I had it right here.</p> <p>5 There's another insert also.</p> <p>6 Q. There are three inserts?</p> <p>7 A. Yes.</p> <p>8 Q. But let's stick with this picture</p> <p>9 here.</p> <p>10 A. Okay.</p> <p>11 Q. So the one on the bottom is a photo</p> <p>12 in the Yes Rasta book?</p> <p>13 A. Yes, it is. It's a reproduction in</p> <p>14 the book, yes.</p> <p>15 Q. Right. Of a photo.</p> <p>16 And above looks like you've taken</p> <p>17 that entire photo and put it in your studio?</p> <p>18 A. I've taken the entire photo and had</p> <p>19 it, the inkjet process, blown up to a very large</p> <p>20 scale on canvas and stretched it on stretcher</p> <p>21 bars. That's what we're looking at on the top</p> <p>22 of that photo.</p> <p>23 Q. Let me just find -- okay. Here is</p> <p>24 the photo in the book. Here it is, okay?</p> <p>25 A. Yes.</p>



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<p style="text-align: center;">357</p> <p>1 Prince</p> <p>2 MR. HAYES: Same.</p> <p>3 A. In the book?</p> <p>4 Q. Yes.</p> <p>5 A. Or in the painting?</p> <p>6 Q. Let's start with the book.</p> <p>7 A. Not really.</p> <p>8 Q. How about in your painting?</p> <p>9 A. Not really. No.</p> <p>10 Q. You notice it there, right?</p> <p>11 A. You're pointing it out to me, yes.</p> <p>12 Q. Well, you -- sir, you're the person</p> <p>13 who took these pages from Yes Rasta and used it</p> <p>14 as the backdrop for this painting called</p> <p>15 Djuna Barnes, et cetera, Take Over the</p> <p>16 Guanahani, right?</p> <p>17 A. Yes, I did.</p> <p>18 Q. Okay. Why?</p> <p>19 A. I wanted these women to take over</p> <p>20 the Guanahani.</p> <p>21 Q. And where is the Guanahani?</p> <p>22 A. It's in St. Barth.</p> <p>23 Q. No, no, no. In this painting?</p> <p>24 A. It's behind the woman on the right.</p> <p>25 She's covering it up.</p>	<p style="text-align: center;">359</p> <p>1 Prince</p> <p>2 MR. HAYES: Objection, form.</p> <p>3 A. I've used this particular image as</p> <p>4 part of a collage in creating the painting Djuna</p> <p>5 Barnes, Natalie Barney, Renée Vivien, Romaine</p> <p>6 Brooks Take Over the Guanahani.</p> <p>7 Q. When you say you've taken this image</p> <p>8 or this the photograph, you're pointing to the</p> <p>9 Yes Rasta book, correct?</p> <p>10 MS. BART: Objection, form.</p> <p>11 A. I said I used --</p> <p>12 Q. You said this --</p> <p>13 A. This image.</p> <p>14 Q. And that means this image in the</p> <p>15 Yes Rasta book that you're pointing to?</p> <p>16 A. Yes.</p> <p>17 Q. And tell us why you did that.</p> <p>18 MR. HAYES: Objection to form, asked</p> <p>19 and answered.</p> <p>20 A. To make the painting called Djuna</p> <p>21 Barnes, Natalie Barney, Renée Vivien, Romaine</p> <p>22 Brooks Take over the Guanahani. I don't know</p> <p>23 how else to explain it.</p> <p>24 Q. Isn't that kind of reductive?</p> <p>25 MS. BART: Objection, form, and</p>
<p style="text-align: center;">358</p> <p>1 Prince</p> <p>2 Q. So you can't see it?</p> <p>3 A. I was speaking figuratively. It's a</p> <p>4 poetic title that refers to my impressions of</p> <p>5 what I wanted to try to say in the painting.</p> <p>6 Q. Let's stick with what's actually</p> <p>7 there.</p> <p>8 MS. BART: Objection.</p> <p>9 MR. HAYES: Objection to form.</p> <p>10 A. I'm not interested -- I've never</p> <p>11 been interested in what's actually there.</p> <p>12 Q. Sir --</p> <p>13 A. I think these photographs are</p> <p>14 interested in what's actually there. I've never</p> <p>15 been interested in what's actually there. I</p> <p>16 would like to make that point.</p> <p>17 (Time noted: 6:00 p.m.)</p> <p>18 Q. I understand.</p> <p>19 Just explain to me why you took</p> <p>20 these four images -- these are supposed to be</p> <p>21 the four lesbians, correct?</p> <p>22 A. They're supposed to be, yes.</p> <p>23 Q. And behind them you have taken a</p> <p>24 tropical landscape from Yes Rasta, correct?</p> <p>25 MS. BART: Objection, form.</p>	<p style="text-align: center;">360</p> <p>1 Prince</p> <p>2 argumentative.</p> <p>3 A. You're right. This is a very</p> <p>4 reductive painting. This is very minimal --</p> <p>5 Q. I meant your answer. Never mind.</p> <p>6 You said you did it because you did</p> <p>7 it and I'm trying to understand why you did it.</p> <p>8 MR. HAYES: Objection to form.</p> <p>9 MS. BART: And asked and answered.</p> <p>10 Q. Let me withdraw that.</p> <p>11 A. Okay. I can answer it.</p> <p>12 Q. No, let me withdraw it. I'm going</p> <p>13 to ask you more specific questions.</p> <p>14 In superimposing these four images</p> <p>15 over the landscape from Yes Rasta, right, were</p> <p>16 you commenting on any aspects of culture?</p> <p>17 A. No.</p> <p>18 Q. Were you trying to create anything</p> <p>19 with a new meaning or a new message?</p> <p>20 A. No.</p> <p>21 MS. BART: Objection, form.</p> <p>22 Q. Were you trying to create something</p> <p>23 new and unique?</p> <p>24 MS. BART: Objection, form.</p> <p>25 MR. HAYES: Objection, form.</p>



<p style="text-align: center;">361</p> <p>1 Prince</p> <p>2 A. Yes.</p> <p>3 Q. What?</p> <p>4 A. A balls-out, great, unbelievably</p> <p>5 looking great painting that had to do with a</p> <p>6 kind of a rock-and-roll painting on the radical</p> <p>7 side, and on a conservative side something to do</p> <p>8 with Cézanne's bathers.</p> <p>9 Q. Okay.</p> <p>10 A. So the melding of the two left wing,</p> <p>11 right wing, would maybe make a middle wing. I</p> <p>12 guess that's the way I could explain it.</p> <p>13 Q. All right.</p> <p>14 Can you take a look at C18?</p> <p>15 MR. HAYES: C what?</p> <p>16 Q. C0018.</p> <p>17 Do you see that, C18?</p> <p>18 A. Yes.</p> <p>19 Q. This particular Rasta, would you</p> <p>20 agree you used him a number of times in the</p> <p>21 Canal Zone paintings?</p> <p>22 A. Yes.</p> <p>23 Q. In fact, you also used him, among</p> <p>24 other places, in C23?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">363</p> <p>1 Prince</p> <p>2 Q. You put a guitar on and some paint</p> <p>3 on the face, right?</p> <p>4 A. I collaged the guitar and I painted</p> <p>5 the face, yes.</p> <p>6 Q. And what new meaning or artistic</p> <p>7 expression have you added to the Yes Rasta</p> <p>8 photo?</p> <p>9 MS. BART: Objection, form.</p> <p>10 MR. HAYES: Object to form.</p> <p>11 A. That's pretty simple. I was</p> <p>12 thinking about the guitar as the new fig leaf,</p> <p>13 which I think is an interesting idea.</p> <p>14 I don't see a fig leaf on this</p> <p>15 particular image. I'm referring to the image</p> <p>16 that's a reproduction in Yes Rasta.</p> <p>17 Q. Could you look at C32?</p> <p>18 Is that Tales of Brave Ulysses?</p> <p>19 A. Yes.</p> <p>20 Q. Now, there you've used that same</p> <p>21 Rasta four times but haven't painted on his face</p> <p>22 or put on a guitar, correct?</p> <p>23 A. That's correct.</p> <p>24 Q. So how have you added a new meaning</p> <p>25 or message or commented on aspects of culture in</p>
<p style="text-align: center;">362</p> <p>1 Prince</p> <p>2 Q. Now, which of these, C18 or C23, was</p> <p>3 the basis for the invitation to the Canal Zone</p> <p>4 show, if you know?</p> <p>5 A. C18.</p> <p>6 Q. The first one?</p> <p>7 A. Oh, no.</p> <p>8 Q. One is called Graduation and the</p> <p>9 other is called Meditation.</p> <p>10 A. I believe it was C18, but I could be</p> <p>11 mistaken. But my feeling is it's C18.</p> <p>12 Q. It's one of those two?</p> <p>13 A. I believe so, yes.</p> <p>14 Q. So let's take C18. What is the</p> <p>15 different message or meaning of your painting as</p> <p>16 opposed to this photograph?</p> <p>17 MS. BART: Objection, form.</p> <p>18 A. I don't see any photograph.</p> <p>19 Q. The image on the bottom is taken</p> <p>20 from Yes Rasta, correct?</p> <p>21 A. Yes, it is.</p> <p>22 Q. And the image at the top is your --</p> <p>23 is a reproduction of your painting, right?</p> <p>24 A. Yes.</p> <p>25 MS. BART: Objection, form.</p>	<p style="text-align: center;">364</p> <p>1 Prince</p> <p>2 your painting as compared to the photo from</p> <p>3 Yes Rasta?</p> <p>4 MS. BART: Objection to form.</p> <p>5 MR. HAYES: Objection, form.</p> <p>6 A. I'm not sure if I have to comment on</p> <p>7 culture with every single painting.</p> <p>8 Q. Well, I'm just asking you about this</p> <p>9 painting?</p> <p>10 A. I think the -- Tales of Brave</p> <p>11 Ulysses was written by the Cream, the group.</p> <p>12 Q. The Cream?</p> <p>13 A. The Cream.</p> <p>14 Q. So this is another music --</p> <p>15 A. It was a musical band that I really</p> <p>16 like and I really like that song. And the</p> <p>17 rhythm, the repetition of the images, the</p> <p>18 different scales, I wanted to kind of get this</p> <p>19 idea of the rhythm of how that song -- what</p> <p>20 impression that song makes to me when I was</p> <p>21 listening to it I believe.</p> <p>22 Q. Which song?</p> <p>23 A. Tales of Brave Ulysses.</p> <p>24 Q. So this -- your painting, what is</p> <p>25 the Rasta and these women, is supposed to</p>



<p style="text-align: center;">365</p> <p>1 Prince</p> <p>2 conjure up that song?</p> <p>3 MR. HAYES: Object to the form.</p> <p>4 MS. BART: Join.</p> <p>5 A. I tried, yes, to conjure up the</p> <p>6 feeling I had for that song.</p> <p>7 Q. Now, does this painting Tales of</p> <p>8 Brave Ulysses fit into the post-apocalyptic</p> <p>9 theme that we discussed before?</p> <p>10 A. Yes.</p> <p>11 Q. Are you implying in this painting</p> <p>12 that these black Rastafarians are potentially</p> <p>13 dangerous to these naked white women, that they</p> <p>14 might rape them?</p> <p>15 MR. HAYES: Objection, form.</p> <p>16 MS. BART: Objection, form.</p> <p>17 Q. You can answer.</p> <p>18 A. No.</p> <p>19 Q. Not at all?</p> <p>20 MR. HAYES: Objection, form.</p> <p>21 A. No.</p> <p>22 Q. What, if anything, are you -- what</p> <p>23 is your message, if any, with respect to the</p> <p>24 juxtaposition of this Rasta and these naked</p> <p>25 women? Without any guitars, right?</p>	<p style="text-align: center;">367</p> <p>1 Prince</p> <p>2 identification, as of this date.)</p> <p>3 Q. Mr. Prince, these let me explain</p> <p>4 what these are, although you may know.</p> <p>5 But these were made available to us</p> <p>6 by your attorney. And Mr. Boden here went over</p> <p>7 there and looked at what you had written in the</p> <p>8 Rasta book, Yes Rasta book.</p> <p>9 Remember you said you had it and</p> <p>10 were writing in it and cutting things out?</p> <p>11 And so this is what was made</p> <p>12 available to us.</p> <p>13 MR. BROOKS: And we asked for these</p> <p>14 to be copied, am I right, Mr. Hayes?</p> <p>15 MR. HAYES: You're right that he</p> <p>16 took photographs of them. I don't think</p> <p>17 we copied them. You took photos?</p> <p>18 MR. BODEN: Yes.</p> <p>19 MR. BROOKS: But these were made</p> <p>20 available by you, right?</p> <p>21 MR. HAYES: I assume so, yes. I</p> <p>22 have no reason to doubt it --</p> <p>23 THE WITNESS: Why are they all</p> <p>24 upside down?</p> <p>25 MR. HAYES: I don't think they were</p>
<p style="text-align: center;">366</p> <p>1 Prince</p> <p>2 A. My daughter would say I was slapping</p> <p>3 the bass.</p> <p>4 Q. What does that mean?</p> <p>5 A. I don't believe I have to interpret</p> <p>6 or explain slapping the bass. It's a reggae</p> <p>7 term.</p> <p>8 Q. Well, just enlighten us --</p> <p>9 A. As far as I know --</p> <p>10 Q. Enlighten us since we're not --</p> <p>11 A. It's about jamming. I'm jamming.</p> <p>12 Q. Okay.</p> <p>13 A. I believe that this is a kind of</p> <p>14 painting that suggests, or I would hope that it</p> <p>15 would suggest that type of activity.</p> <p>16 Q. All right.</p> <p>17 A. I mean you've --</p> <p>18 Q. Seeing these people as a band, a</p> <p>19 rock-and-roll band?</p> <p>20 A. Yes.</p> <p>21 MR. BROOKS: Last exhibit, 41?</p> <p>22 (Clarification by reporter.)</p> <p>23 MR. BROOKS: This will be 43.</p> <p>24 (Plaintiff's Exhibit 43, pictures</p> <p>25 from Yes Rasta, was marked for</p>	<p style="text-align: center;">368</p> <p>1 Prince</p> <p>2 made available in this form or this</p> <p>3 order --</p> <p>4 (Clarification by reporter.)</p> <p>5 MR. HAYES: I can't say that they</p> <p>6 were made available in this form or this</p> <p>7 order, but I certainly accept the</p> <p>8 representation by Eric that he made</p> <p>9 photocopies of them -- he made photos of</p> <p>10 them at my office.</p> <p>11 BY MR. BROOKS:</p> <p>12 Q. Anyway, we'll let you decide,</p> <p>13 Mr. Prince, what this is. Maybe you'll say I</p> <p>14 never saw this before.</p> <p>15 So I'm led to believe this was a</p> <p>16 production made from your documents from your --</p> <p>17 what you wrote in the book. But --</p> <p>18 A. These things? They're all</p> <p>19 different. I mean --</p> <p>20 MR. HAYES: That's not true.</p> <p>21 A. -- there are a whole bunch of</p> <p>22 different --</p> <p>23 MR. HAYES: Ask Eric if he copied</p> <p>24 them.</p> <p>25 MR. BROOKS: Well, let's look at the</p>



Richard Prince

October 6, 2009

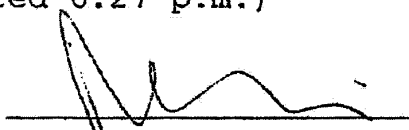
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Prince

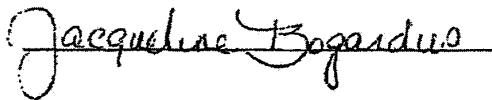
That's it.

(Time noted 6:27 p.m.)



RICHARD PRINCE

Subscribed and sworn to
 before me this 24 day
 of November, 2009.



Jacqueline Bogardus
 Notary Public State of New York
 No. 0180698891
 Qualified in Greene County
 Commission Expires 12/31/09

Richard Prince (American, 1949)

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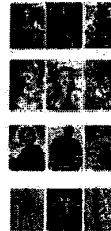
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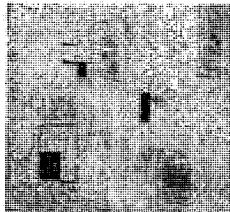
Richard Prince
Board (Skateboard)
2007
end time: May 18, 2010
2:00 PM EST
artnet Online Auctions
lot detail



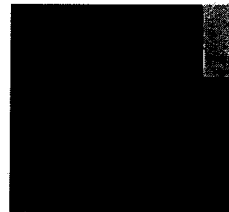
Richard Prince
All the Best (Tupac Shakur, Cameron Diaz, Courtney Love, Pamela Anderson+ Fred Savage, Kurt Cobain, Gwen Stefani, Keanu Reeves, Katie Holmes, Mike Tyson, Denise Richards, Biggy Smalis, Brandon Lee)
2000
Jablonka Galerie



Richard Pr
Science
2010
Gagosian Gal



Richard Prince
Untitled (Guest)
2010
Gagosian Gallery, NY



Richard Prince
The Fountainhead
2010
Gagosian Gallery, NY



Richard Pr
Skateboard 2) Hand sig
2007
end time: Me
1:00 PM EST
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lot detail

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Richard Prince
Overseas nurse, 2002
 Sale Date: Jul 1, 2008
 lot detail



Richard Prince
Man-crazy nurse no.2,
 2002
 Sale Date: May 13,
 2008
 lot detail



Richard Prince
Piney woods nurse
 Sale Date: May 13,
 2007
 lot detail

Richard Prince Biography

1949 Born in the Panama Canal Zone
 Lives and works in upstate New York

Selected Exhibitions

- 2008 Depreciation and Devastation, Gavin Brown's Enterprise at Passerby, New York
- 2008 Typed, Sadie Coles, London
- 2008 John Dogg, Kunsthalle Zurich, Zurich, Switzerland
- 2008 Radical Advertising, Projects GmbH, Dusseldorf
- 2008 Street & Studio: An Urban History of Photography, Tate Modern, London
- 2008 God & Goods, Villa Manin, Codroipo, Italy
- 2008 "Richard Prince: Continuation," Serpentine Gallery, London
- 2007 Richard Prince: Spiritual America, Solomon R. Guggenheim Museum, New York, U.S.A. (solo)
- 2007 Astrup Fearnley Museet for Moderne Kunst, Oslo, Norway (solo)
- 2007 Frieze Projects, Frieze Art Fair, London
- 2007 My Sweet Sixteen Party, Rodolphe Janssen, Brussels
- 2007 Walker Art Center, Minneapolis;
- 2007 "Richard Prince: Panama Pavilion Venice" Serpentine Gallery, London
- 2007 Light Sentence, Zeuggasse 7, Obergeschoss, Germany
- 2007 Fugitive Artist: The Early Work of Richard Prince, 1974-1977, Neuberger Museum of Art, New York, U.S.A. (solo)
- 2007 Concept: Photography – Dialogues & Attitudes, Ludwig Museum – Museum of Contemporary Art, Budapest, Hungary
- 2007 Skarstedt Fine Art, New York, U.S.A.
- 2007 Barbican, Art in the punk years, London, Great Britain
- 2007 Brave Lonesome Cowboy: The Myth of the Western in Contemporary Art – Or: For the hundredth Birthday of Jo Galerien der Stadt Esslingen am Neckar, Villa Merkel, Esslingen am Neckar, Germany
- 2007 Brave Lonesome Cowboy: The Myth of the Western in Contemporary Art – Or: For the hundredth Birthday of Jo Kunstmuseum St. Gallen, St. Gallen, Switzerland
- 2006 The Other Side, Tony Shafrazi Gallery, New York, U.S.A.
- 2006 Medium Fotografie, Stampa Galerie, Basel, Switzerland
- 2006 Hollywood Boulevard, Galeria Fortes Vilaça, Sao Paulo, Brazil
- 2006 New Trajectories I: Relocations: Recent painting, drawing and multi-media work from the Ovitz Family Collection, Angeles, Cooley Gallery at Reed College, Portland, U.S.A.
- 2006 Dark Places, Santa Monica Museum of Art, Santa Monica, U.S.A.
- 2006

	Richard Prince: Canaries in the Coal Mine, Astrup Fearnley Museum, Oslo, Norway (solo)
2006	Richard Prince: Cowboys, Mountains, and Sunsets, Monika Sprüth, Cologne, Germany (solo)
2006	The Portfolios, Juergen Becker, Hamburg, Germany (solo)
2006	Cowboys and Nurses, John McWhinnie @ Glenn Horowitz, New York, U.S.A. (solo)
2006	In the darkest hour there may be light, Serpentine Gallery, London, Great Britain
2006	ANOS 80: UMA TOPOLOGIA (The 1980's: A Topology), Fundação Serralves, Porto, Portugal
2006	A Thousand Things, MU meets 2KbyGingham, Eindhoven, Holland
2006	Made In China, Gallery 51, Antwerp, Belgium
2006	The Other Side #2, Tony Shafrazi Gallery, New York, U.S.A.
2006	Magritte and Contemporary Art: The Treachery of Images, LACMA, Los Angeles, U.S.A.
2006	Wrestle, CCS Bard /Hessel Museum of Art, Annandale-on-Hudson, New York, U.S.A.
2006	Seventy-five at 75: Selections from the Joseph and Elaine Mosen Photography Collection at the Henry Art Gall Allen Center for the Visual Arts University of Washington, Seattle, U.S.A.
2006	The Big Nothing, ICA University of Pennsylvania, Philadelphia, U.S.A.
2006	Defamation of Character, PS 1 MoMA, New York, U.S.A.
2006	Surprise, Surprise, ICA, London
2006	Likeness: Portraits of Artists by Other Artists, CCA Virginia, Virginia Beach, U.S.A.
2006	Surprise, Surprise, ICA Institute of Contemporary Arts, London
2006	Infinite Painting – Contemporary Painting and Global Realism, Villa Manin Centro d' Arte Contemporanea, Codro Italy
2005	Undiscovered Country, UCLA Hammer, Los Angeles, U.S.A.
2005	Whitechapel, Faces in the Crowd: Picturing Modern Life from Manet to Today, London, Great Britain
2005	LeRoy Neiman Gallery, Faking Real, Columbia University School of the Arts, New York, U.S.A.
2005	Richard Prince: New Work, Sadie Coles HQ, London, Great Britain (solo)
2005	Barbara Gladstone Gallery, New York, U.S.A. (solo)
2005	Drunk vs. Stoned, General Store in association with Gavin Brown's enterprise, New York, U.S.A.
2005	Atlantic & Bukarest, Kunstmuseum Basel, Basel, Switzerland
2005	Photographic Works, Jurgen Becker, Hamburg, Germany
2005	100 Artists See God, Contemporary Art Center of Virginia, Virginia Beach, U.S.A.
2005	girls on film, Zwirner & Wirth, New York, U.S.A.
2005	Richard Prince, Check Paintings, Gagosian, Beverly Hills, U.S.A.
2005	Richard Prince, Gladstone Gallery, New York, U.S.A.
2004	Women, Regen Projects, Los Angeles (Artist's book "Women") Man, Galerie Eva Presenhuber, Zurich, Switzerland (Artist's book "Man")
2004	American Dream: Collecting Richard Prince for 27 years, Rubell Family Collection, Miami
2003	Sadie Coles HQ, London. Artist's book American-English. "Richard Prince: Publicities," Works from the Ophiuchus Collection, Hydra Workshop, Greece "Richard Prince: New Work," Glenn Horowitz Bookseller, East Hampton, NY. Artist's book Good Life. "Richard Prince: Nurse Paintings," Barbara Gladstone Gallery, New York. Artist's book Nurse Paintings. "Richard Prince: Upstate," Sabine Knust, Munich, Germany
2002	Barbara Gladstone Gallery, New York. Artist's book It's a free concert from now on, Santa Monica, U.S.A.
2002	Public Affairs, Kunsthaus Zurich, Switzerland
2002	Short Stories, Henry Art Gallery, Seattle, U.S.A.
2001	Summer Reading, Frances Lehman Loeb Art Center, Poughkeepsie, New York, U.S.A.
2001	Televisions, Kunsthalle Wien, Vienna, Italy

2001	Art at the Edge of the Law, The Aldrich Museum of Contemporary Art, Ridgefield, CT, Ridgefield
2001	Museum fur Gegenwartskunst, Basel and Kunsthalle Zurich, Switzerland (cat.)
2001	Kunstmuseum Wolfsburg, Germany (cat.)
2001	Sadie Coles HQ, London, Great Britain
2001	Regen Projects, Los Angeles, U.S.A.
2001	Skarstedt Fine Art, New York, U.S.A.
2001	Galerie Micheline Sz wajcer, Antwerp, Belgium
2000	Partobject Gallery, Carrboro, NC, Richard Prince: Princeville
2000	Barbara Gladstone Gallery, New York, U.S.A.
2000	Photographs, Paintings, Jablonka Galerie, Cologne, Germany
2000	4 x 4, MAK Vienna, Vienna, Italy
2000	Au-delà du Spectacle, Centre Pompidou, Paris, France
2000	Institute of Contemporary Art, Boston, Customized: Art Inspired by Hot Rods, Low Riders, and American Car Cl
2000	Apocalypse: Beauty & Horror in Contemporary Art, Royal Academy of Arts, London, Great Britain
2000	Richard Prince: Photographs/Paintings, Jablonka Galerie, Cologne
1996	Richard Prince: Neue Bilder, Jablonka Galerie, Cologne
1993	Richard Prince: Girlfriends, Jablonka Galerie, Cologne
1990	Richard Prince, Jablonka Galerie, Cologne
1988	Richard Prince, Jablonka Galerie, Cologne
1988	Barbara Gladstone Gallery, New York
1987	Galerie Isabella Kacprzak, Stuttgart
1987	Daniel Weinberg Gallery, Los Angeles
1986	International with Monument, New York
1986	Feature Gallery, Chicago
1985	International with Monument, New York
1984	Riverside Studios, London, England
1983	Le Nouveau Musée, Lyon, France
1982	Metro Pictures, New York
1981	Metro Pictures, New York

Literature

2008	God & Goods: Spiritualita e Confusione di Massa/Spirituality and Mass Confusion, Villa Manin Centro d'Arte Cont Coldropo, Italy
2008	Anatomie les Peaux du Dessin,: collection Florence & Daniel Guerlain, Fonds Regional d'Art Contemporain de Pic Amiens, 2008, p. 118
2008	Excerpt: Se;ections from the Jeanne Greenberg Rohatyn Collection, Vasser College, NY, 2008.
2008	Nancy Spector et al., Collier Schorr: Freeway Balconies, Deusche Guggenheim, Berlin
2008	Serpentine Gallery Summer 2008: Part 1, Cultureshock Media
2008	Street and Studio: An Urban History of Photography, Tate Publishing, London, p. 107
2008	Art Editions 6, Edition Schellmann, New York.
2008	Richard Prince: America Goes to War...Swimming in the Afternoon..., Koenig Books and the Serpentine Gallery,

- 2007 Richard Prince, Guggenheim Museum Publications, New York.
- 2007 Richard Prince: Canaries in the Coal Mine, Astrup Fearnley Museet for Moderne Kunst
- 2006 Richard Prince Jokes & Cartoons. JRP | Ringier, Switzerland. 2006.
- 2005 Second House. Gladstone Gallery, New York. 2005
- 2005 Richard Prince: Check Paintings. Gagolian Gallery. 2005.
- 2004 Richard Prince. Sammlung Goetz Museum. November 2004.
- 2004 American Dream: Collecting Richard Prince for 27 Years. Rubell Family Collection.
- 2004 Richard Prince: Man. Galerie Eva Presenhuber, Zurich. jpr|ringer.
- 2003 Richard Prince, interviews by Rosetta Brooks, Jeff Rian, and Luc Sante, Phaidon
- 2003 Richard Prince: Good Life, essay by John McWhinnie, Glen Horowitz Booksellers, East Hampton, NY.
- 2002 It's a Free Concert from Now On, essay by Neville Wakefield, Barbara Gladstone Gallery, NY
- 2001 Human Nature (dub version), Glenn O'Brien, Richard Prince, Grey Bull Press, Los Angeles

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DAVID COHEN, Editor

December 2005

artcritical.com

FOR YOUR EYES ONLY

EIGHTEEN EXPERTS TALK WITH **BRIAN APPEL** ON THE \$1,248,000 RICHARD PRINCE PHOTOGRAPH THAT HAS SET A NEW WORLD AUCTION RECORD FOR PHOTOGRAPHY



Richard Prince **Untitled (Cowboy)** 1989

Ektacolor print, 50 x 70 inches

This work is number one from an edition of two plus one artist proof

Pre-auction estimate: \$900,000 - 1,200,000

Sold at Christie's Post-War/Contemporary Art auction #1573 for \$1,248,000 (including buyer's premium) on November 8th, 2005.

Courtesy Christie's Images Limited, 2005

"There wasn't really a plan. I've never been included in any photography based survey, museum show, photo magazine. I've heard that Peter Galassi hates my work. That he would never acknowledge it in the photo department at MoMA. I think he's wrong. I think my photo work is all about photography. But there was never an

idea about where the work was going at the beginning when I started to re-photograph images. When you don't have any training in a particular medium you can bring something to it that hasn't been brung (sic). I "brung" the sheriff and I shot him. I killed photography. Maybe they hated that.. I always look for my name in Photography mags but I never see it. Maybe I should have "rescued" photography."

RICHARD PRINCE FROM AN ON-GOING (UNPUBLISHED) E-MAIL INTERVIEW WITH BRIAN APPEL – SEPTEMBER 26TH, 2005.

On November the 9th, one day after Richard Prince had broken his own personal artist record at auction and set a new world auction record for the medium of photography I contacted the international head of photography at Christie's auction house with the following e-mail:

BRIAN APPEL – Richard Prince is now the most successful photographer alive!

PHILIPPE GARNER – So – Richard Prince takes the crown as the author of THE MOST EXPENSIVE PHOTOGRAPH EVER SOLD AT AUCTION. I am pleased at a professional level, that this is a Christie's achievement. Personally, this result sets me questioning the ways in which photographic history, and especially recent photographic history, has been written, seemingly reconfigured, by a relatively narrow audience. I am not saying that readings of photography that put Prince where he is are flawed. Clearly Prince is hailed as a Contemporary Artist, a man of ideas whose chosen medium is, perhaps appropriately, photographic. His admirers are not wrong. What I question is the disproportion between the consequences of acclaim in the Contemporary Art forum as against acclaim in other contexts not fueled by testosterone \$\$\$\$\$\$. What do you think?

BA – Excellent question. Given the fact that Christie's has identified 82% of last evening's buyers as American – testosterone does play an important role. The Prince piece, the cowboy image, is absolutely about this very mythology – the mythic, lone, powerfully independent American pioneer. Prince, of course, is really commenting on the machinery of America, the Madison Avenue advertising myth-making machinery that we export around the world and whose underlying meaning is all about what America needs to see reflected in its mirror. Prince nailed this back in the early 80s and here it is in all its hilarious glory sitting on your walls in the auction room right opposite and closest to your Honorary Chairman and Chief Auctioneer Christopher Burge and at the auction preview peaking out brilliantly so you could see it as you walked into the 'great room'. It is also a victory for photography in that like the role the invention of photography performed at its inception liberating painting from the need to reflect what was happening in the world, Prince's "Cowboy" releases the medium of photography from its burden to record what the camera is placed in front of. Prince's piece is really about turning the camera inward.

Probably the buyer(s) of this work were not embracing these art historical meanings when they purchased this artwork, but they were smart enough to intuit that this work, and Prince's work in general is important and somehow uniquely American.

They also were wise enough to place it in their "BEST OF" category as they go about their business of collecting the very best seminal pieces for their "BEST OF" Contemporary collections.

PG – Excellent answer. I acknowledge that Prince's subject matter is BIG – bigger than the overt content of the images.. He really does see a (metaphorical) bigger picture and expresses his position/attitude – call it what you will – very effectively with an exceptional economy of means. Hats off to him (Stetsons of course).

Prince's isolation of the tokens of masculinity by re-photographing Madison Avenue's longest-running fiction, the ridin', ropin' Marlboro man are generally thought to be the images that made the artist's name in the art world. By using the camera to revisit a stage-managed, artificially constructed model created for mass consumption, Prince's cowboy can be looked upon as not only a re-fashioning of history but also a denial of one of the main tenets of the medium of photography – its inherent ability to record 'truth'. Excited by this exchange with Philippe and curious about what others would think about the impact of this momentous occurrence, I forwarded this e-mail correspondence to a number of art professionals under the heading – "A SHORT CONVERSATION WITH PHILIPPE GARNER, THE INTERNATIONAL HEAD OF PHOTOGRAPHY AT CHRISTIE'S REGARDING THE RICHARD PRINCE PHOTOGRAPH "Untitled (Cowboy)", 1989, THAT BROKE THE WORLD AUCTION RECORD FOR ANY PHOTOGRAPH". Additionally, as I received responses, I sent those out to the same list. In the order I received comments, I bring you, dear reader, their unedited, verbatim thoughts. "For Your Eyes Only" is the beginning, I hope, of more articles that introduce important events in the world of art that are addressed in a 'round-table' e-mail format by a number of specialists who share their thoughts on the subject.

BRIAN PAUL CLAMP – director of photo gallery / ClampArt, New York – It is telling that the first photograph to fetch more than one million dollars was a contemporary artwork by a living artist as opposed to a classic, vintage print. Of course, the significance of Richard Prince's contribution to postmodern art cannot be underestimated. His Marlboro men (along with Cindy Sherman's untitled film stills) typify the "death of painting" discourse popular in the late 70s and early 80s that set the stage for much of the contemporary art being produced today. Nonetheless, despite my own enthusiasm for and investment in contemporary art, one must first acknowledge that it certainly is the flavor of the day, and the fact that an editioned print by a living artist can fetch far more at auction than a vintage photograph by an acknowledged "master" (whatever that means), may speak more of fashion than sound financial speculation (in the short term, anyway). Granted, such a statement likely seems a bit snarky. Perhaps the traditional photography market is still poised for a major upswing. Or, could it be that the art dealers' construction of the complicated and troublesome concept of a "vintage print" (typically defined as a photograph made within one to five years of the negative date) has never been wholly accepted or embraced by the large part of the art-buying public?

ALEX NOVAK – photo dealer / Vintage Works Ltd., Chalfont, Pa. / writer, publisher / E – Photo Newsletter – Yeah, I was watching this one too. It's a shame it sold. I

don't think a lot about Prince's color copy prints of ads. Anyone could do this work, and I don't think much about his explanation for it.

His concepts are tired, simplistic ideas that have little to add to any dialogue. And his derivative images just plain bore the heck out of me. Will he go up in value? Most probably, at least for the short to medium term. But that is a fake market value being built up around him and a few other "contemporary artists" by the art market. I hope the actual photographer he is ripping off and Marlboro both sue the hell out of Prince and his dealer. There is plenty of legal precedent for that.

DAVID ZWIRNER – art dealer / David Zwirner, New York – It is surprising that the first million dollar photograph would be a contemporary work and not a vintage photograph. However, given the importance of photography in the artist's output over the last 25 years and the technological breakthroughs in large-scale color photography it was only a matter of time until the million dollar mark would be broken. It is of course ironic that it would be an appropriated image that makes the leap, thus throwing a question mark at the traditional role of authorship that dominates the vintage photography market.

GREGOR MUIR – director of exhibitions / Hauser + Wirth, London – Prince has made a significant contribution to contemporary art through his use of "re-photography". Of all the different series using this technique, the "Cowboy" series remains the most profound. That Prince appropriated these images from Marlboro advertisements does not take away from the fact that the finished art works are so recognizably his. This is an important artist, an important body of work, and "UNTITLED (COWBOY)" is an exceptional example. One might say it's a good day for the "re-photography" market.

DAILE KAPLAN – V.P., director of photographs / Swann Galleries, New York – It's a measure of photography's ubiquity in the popular imagination that a photograph has broken the million dollar barrier. That this work was created by a contemporary artist raises a number of interesting issues, not least of which is "what is a photograph?" From my perspective as an auction house specialist and scholar, post-modern discourse has fast-forwarded thinking about photography in a culture that, for the most part, is visually illiterate. Yes, the record for Richard Prince's photograph is a marvelous watershed for our community. But, it also speaks to the need to cultivate a broader understanding of photographic expression in all its forms.

AVI SPIRA – art consultant / Art Ventures International, Inc., New York – Hard to add much as it's a brief conversation thus far. The comments are certainly all appreciated (especially David's [Zwirner]). I just think in 2005 we are so far removed from photography being defined as an artist taking his camera to the "street" and photographing reality, whatever that might be. Thomas Ruff makes camera-less photographs and Jeff Wall makes images that in actuality are a combination of hundreds. Vik Muniz makes photographs of precious collages based on paintings and Sugimoto's portraits are not even photographs of real people. The list could go on and on. Photography is such a malleable and loosely defined medium at this point that I think any discussion of record prices for a photograph are somewhat moot.

I think the more important angle to "the Richard Prince story" is the real star of today's market boom – Andy Warhol – as almost all successful artistic paths increasingly seem to now run through Warhol's indelible and enormous footprints.

ROBERT MANN – Robert Mann Gallery, New York – I think this is a wonderful milestone for the art world! I am especially thrilled that you are succinctly classifying the Prince as a photograph. Along with David Zwirner, I too am surprised that the first photograph sold publicly for over one million dollars is not a vintage work by a classical photographer. I would venture to say that this record will be broken this winter when Sotheby's auctions off works from the Metropolitan Museum of Art / Gilman Paper Company Collection. The Edward Steichen "The Pond – Moonlight" print will more than likely top the Prince.

MARLA HAMBURG KENNEDY – photo publisher / Picture This Publications, photo consultant / HK Photo, New York – I have been thinking about this a great deal. I find it very apropos that the new world record would be a photograph that has been made under the auspices of contemporary fine art. This is an artist that is clearly considered not a photographer but a fine artist who utilizes for some of his work, photography. It is far away from traditional classic photography concerns but ensconced in conceptual issues. Moreover it shows still the great gap between prices of classic photography that is shown in photography galleries and sold in photography auctions and contemporary photography that is shown in art galleries and sold at the contemporary sales. To wit, a major perhaps vintage unique photograph by one of the century's greatest photographers (Arbus, Weston, Strand, Stieglitz, Frank) can be acquired for under \$500,000, while this price is comparable to photographic works done in editions of 10 by an artist like Andreas Gursky (or Richard Prince).

In sum, in my opinion, this shows the stupendous opportunity to buy great works of photography at a relatively very low price compared to the other mediums, and growth potential in the market. I cannot encourage the collecting of important photography more!

MAUREEN BRAY – director of exhibitions / L&M Arts, New York – I think the Prince work is worth every penny that it made at auction. Zwirner makes an interesting point about contemporary photo vs. vintage print. I think the world is finally at a point where contemporary photography and fine art is synonymous. Therefore, we'll see even more contemporary artists working in the photo medium achieve these auction results. But perhaps the older, vintage photographs may always be seen as a subset of "art". As they continue to grow in historical significance, they will gain in value, but they may always be considered a subset. I look forward to watching that development. The question might be: what is the cut-off parameters for historical photographs or contemporary art that is in a photographic medium?

PETER MacGILL – photo dealer / Pace/MacGill Gallery, New York – Maureen Bray makes a lot of interesting points, but I don't really agree that older, vintage photographs may always be seen as a subset of "art". Even a cursory examination of art history reveals that photography and the other arts are clearly intertwined. Can one really consider Duchamp without Man Ray or vice versa? Those who have embraced this understanding have collected mightily and are, probably, the big

winners for they have the goods. Collectors of contemporary art are collecting "vintage" photographs as they recognize their importance, place in history, rarity and archival qualities. Do you think people understand the permanence issues relating to color photography?

STUART ALEXANDER – photo specialist / Christie's, New York – In response to David Zwirner's remark, I would say that there is no "question mark" because the "author" of the appropriated Marlboro ad is Richard Prince and not a lesser-known or anonymous artist, thus "authorship" still matters. In order for a "ready-made" to sell for large amounts of money it must be signed by the well-known artist.

SIMON de PURY – chairman and chief auctioneer / Phillips de Pury & Company, New York – This result in no way constitutes a surprise. First it is only a catching up of the public market place with the private one where the million dollar mark for photographs by Richard Prince had been surpassed on at least two occasions. If over the last two years new record prices for his work have been broken with great frequency it is only a long overdue recognition of the market for one of the greatest artists living today. This is an artist constantly evolving and whose recent and current work is as strong as anything he has ever done. Of the twenty most expensive Prince works sold to date at auction, six were photographs. Photography is just one of the mediums that this artist is working in with equal impact.

The art market in general and the photography market in particular are going through major changes so that in my view in the future the million dollar mark will often be beaten by major works of Richard Prince in any medium and in the photography market by a range of photographers both contemporary and past.

PAUL SACK – photo collector (Top 25 "ARTnews") / San Francisco – I just think it is too bad that, with all the great photographs that have been taken since 1839, the first to sell at auction for more than \$1million is a photograph of another photograph.

ROGER SZMULEWICZ – photo dealer / Fifty One Fine Arts, Antwerp, Belgium – I must say I am divided regarding this important event. On the one hand, I am delighted that a photograph has finally reached the one million dollar mark at auction as it has been dealing with the stigma of being seen as a 'slightly lesser' medium of the fine arts because of its unique properties – one of which is its potential for infinite reproduction. Certainly for a photograph to receive prices that are consistent with the other mediums such as painting and sculpture is a change in credibility that is late in coming. On the other hand, buying at auction can be an environment where anything is possible in terms of motivation to purchase. Craving social status, the desire to do something that is seen as intellectual or prescient, or buying for speculation purposes only could be factors motivating buyers besides the passion for the work of art itself. I do think however, that, whatever the motivations on behalf of buyers at auction, this activity is not a fad or a blip in the history of the medium. More of the same is on the horizon.

LESLIE TONKONOW – art dealer / Leslie Tonkonow, New York – Richard Prince is among the most significant artists of his generation. His ideas transcend the various mediums in which he works and his photographic pieces from the late 1970s and 1980s are among his most important works. Why ask the question about a

photograph? Is this auction record noteworthy because someone was willing to spend more than a million dollars on a photograph or because it's a type of color photograph predicted by experts to fade within three decades? What is fascinating and mystifying to me is the relationship of art and money. What constitutes value? What motivates the buyer? Is this an investment or lavish consumption?

OLIVER KAMM – art dealer (NADA) / 5BE Gallery, New York – Is it a photo? Yes and no – it's really just part of an artist's output. I think of him as a painter and a photographer and an appropriationist – so is it really just a photograph? No – he's not just a photographer. I think he is hugely talented and I think these prices are off the charts. It doesn't make sense. It'll bite everyone in the ass. I'm just glad I'm not Barbara Gladstone having to deal with all this secondary work coming back on the market.

THEA WESTREICH – art advisor / Thea Westreich Art Advisory Service, New York – First, the Richard Prince photograph was not the first photographic work to break the million dollar mark. A Man Ray vintage photograph surpassed that mark some four years ago. The more important thing about the market in photography, both contemporary and vintage is that it is taking its place alongside other, more traditional mediums and is being accepted, as it should be, for its importance in overall art making practices. Having said this, it is equally important to accept the fact that standards of scholarship and connoisseurship lag far behind in the rapidly growing photography market. There are fewer catalogue raisonnées, less consensus on the standards to be applied to the evaluation of any given work of art, and generally not enough agreed upon information on issues of vintage, color stability, numbers of prints, etc.

With regard to the Richard Prince Cowboy, I have always felt that he chose the images made by advertising directors because they reflected his views on image making, which simply put, are more about how the viewer sees the image than the image itself. The truth and fiction issue lies in the creation of an image that is rich and fecund enough to defy a single read. Thus the cowboy is an icon to wide segments of the consuming public... he is sexy to both men and women, he represents freedom, he is both the iconic American and an outsider at the same time, and, he is on the road... another subject of interest to the artist which early in his work is reflected in the drawings he made out of car windows over car hoods... one need not say more. Richard's work is highly considered and of whole cloth, richly woven with themes not always easily explicable, but always there for the curious and available eye.

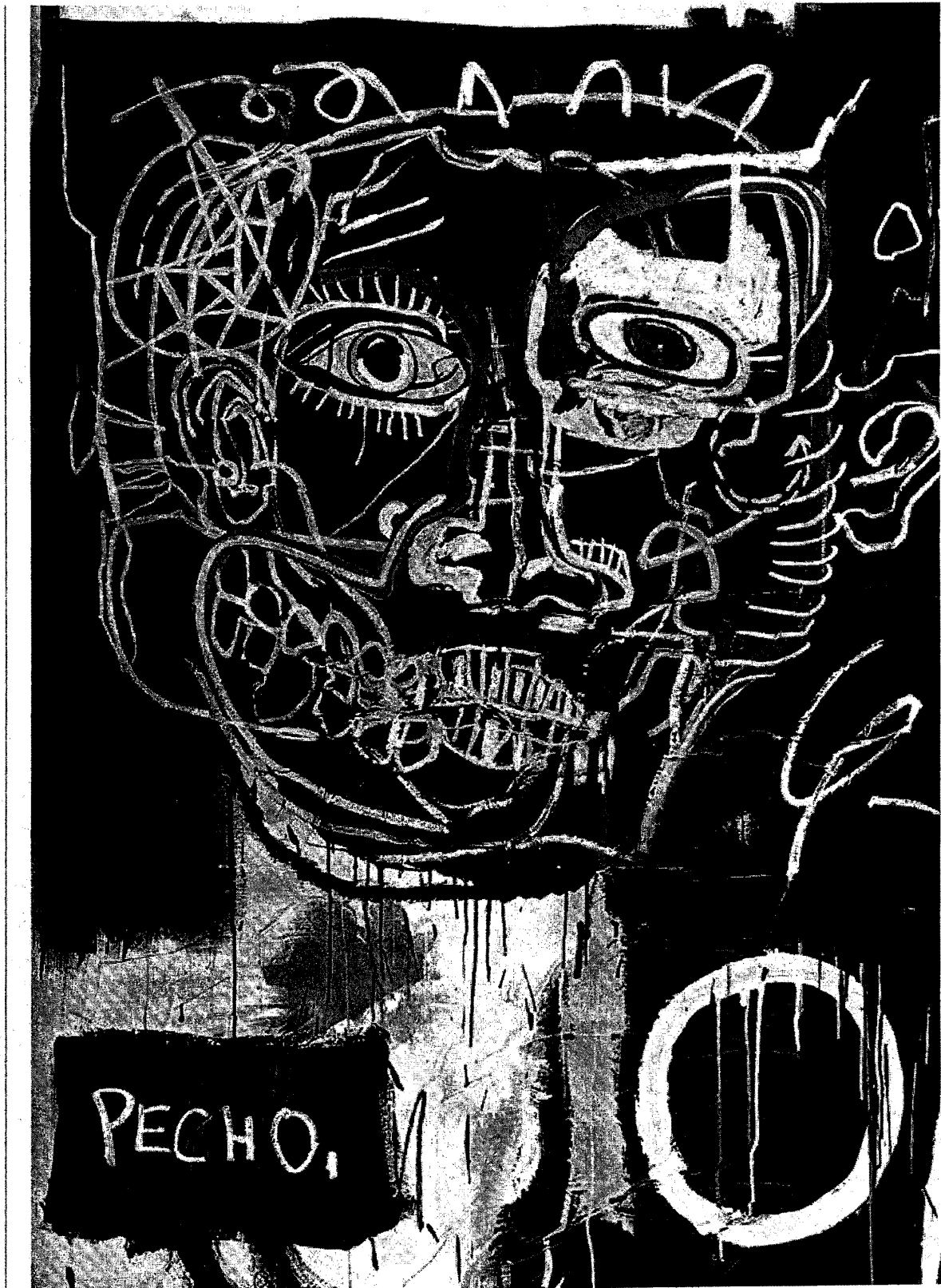


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Sotheby's July 2008 Contemporary Art Evening Sale Triumphs



Jean-Michel Basquiat (1960-1988), Untitled, (Pecho/Oreja). Lot Sold. Hammer Price with Buyer's Premium: 5,081,250

LONDON.- Tonight's Evening Sale of Contemporary Art at Sotheby's London achieved the phenomenal pre-sale estimate of £67.4 – 96.6 million, making it the most successful Summer sale of Contemporary Art throughout the evening, with records achieved for 11 different artists.

Cheyenne Westphal, Chairman of Contemporary Art, Sotheby's Europe and Oliver Barker, Senior Internal Department, said: "We are elated with the results of tonight's sale, the highest ever Summer sale of Contemporary Art, including ones for Antony Gormley, Bridget Riley, Richard Prince and Anish Kapoor, in front of a lot of tonight's sale was Francis Bacon's exquisite smallscale Study for Head of George Dyer, which sold happily with the result achieved for the group of twelve works from the Lauffs Collection, which achieved a low estimate of £6.4 million. Once again, we are witnesses to a market that is driven by art lovers. Buyers competing for, and have shown unprecedented determination to win the lots which they desire."

HIGHLIGHTS INCLUDED:

- Study for Head of George Dyer, 1967 by Francis Bacon sold tonight for an extraordinary £13,761,250 (\$: excess of £8 million. The work is an exceptionally rare, intimate depiction of Dyer - the love of Bacon's life the height of his powers.
- A life-size maquette of Antony Gormley's iconic Angel of the North sold for a record sum of £2,281,250 (\$: 800,000). Literally embodying the genius strain of DNA that runs through the phenomenal Angel of the North as being the most recognisable landmark in Britain, this majestic Angel in cast iron represents a true icon
- Overseas Nurse by Richard Prince (whose exhibition, entitled Continuation, is currently showing at the Saatchi & Saatchi, achieving a new record for the artist at auction (\$8,457,901),
- Jean-Michel Basquiat's early masterpiece, Untitled (Pecho/Oreja) from 1982-83 was sold tonight on behalf of the artist's estate (\$10,133,029). The painting was acquired jointly by the members of the band, after it was first spotted by the Gagosian Gallery in New York. The band acquired Untitled in 1989, and it has since resided in their Dublin studio.
- The Lauffs Collection
Following the phenomenal success of the group of works from the Helga and Walther Lauffs Collection off which has realised \$96.1 million against a presale low estimate of \$47.1 million), the current London series includes a collection, 12 of them in tonight's sale.

The group of 12 works performed well above expectations when they raised a total of £18,983,000 (\$37,800,000-8,930,000, including fantastic prices for Yves Klein's RE3 (est: £1.5-2 million, sold for: £3,177,000) at auction for Snack (est:£600,000-800,000; sold for: £1,161,250).

Another work by Klein, ANT 131, sold for £4,185,250 (\$8,346,226), more than 4 times its presale top estimate by six bidders, both in the room and on the telephones.

• Also: Portrait of John McEnroe and Tatum O'Neal by Andy Warhol, depicting McEnroe and O'Neal during their tennis match. The work was offered by Mr McEnroe and he is donating its proceeds to benefit the philanthropic organisation Habitat for Humanity through the help of volunteers.

Ian Walkden, National Director, Habitat for Humanity, said: "At Habitat for Humanity we believe that every child should have a safe place to live. £200,000 will help us repair or build over 100 homes in developing countries. They will all be built for Habitat. So we are particularly grateful to John McEnroe for his generous gift and, of course, to Sotheby's for making it possible."

RECORDS ACHIEVED:

Lot 1
Martial Raysse
Snack
Estimate: £600,000-800,000

Sold for: £1,161,250

Lot 5

Bridget Riley

Chant 2

Estimate: £2-3 million

Sold for: £2,561,250

Lot 6

Anish Kapoor

Untitled

Estimate: £1-1.5 million

Sold for: £1,945,250

Lot 9

Sean Scully

Valencia Wall

Estimate: £350,000-450,000

Sold for: £657,250

Lot 10

Antony Gormley

Angel of the North (Life-size maquette)

Estimate: £600,000-800,000

Sold for £2,281,250

Lot 12

Marlene Dumas

The Visitor

Estimate: £800,000 – 1,200,000

Sold for: £3,177,250

Lot 22

Richard Prince

Overseas Nurse

Estimate: £4,000,000 – 6,000,000

Sold for: £4,241,250

Lot 38

Jean Tinguely

Metamatic no. 7

Estimate: £150,000-200,000

Sold for £ 1,049,250

Lot 42

Domenico Gnoli

Pocket

Estimate: £300,000-400,000

Sold for: £769,250

Lot 54

Frank Auerbach

Head of Helen Gillespie

Estimate: £500,000-700,000

Sold for: £2,455,294


Lot 72

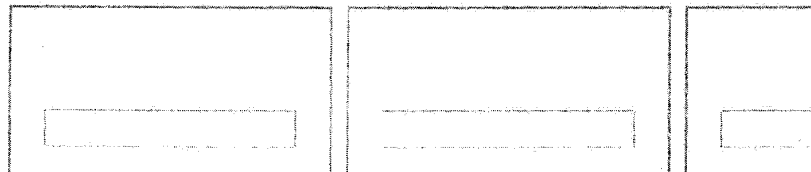
Rachel Whiteread

Untitled
 Estimate: £200,000 – 300,000
 Sold for: £445,250

Today's News	Related Stories
July 2, 2008	
First Large Exhibit Dedicated to Chaplin "Chaplin in Images" Opens at Caixa Forum in Madrid	Flag Flies at C Flag Sells for \$
Sotheby's July 2008 Contemporary Art Evening Sale Triumphs	New Body of V
Accident Involving Italian Terracotta Relief Sculpture by Della Robbia at The Metropolitan Museum of Art	Lansky, Bulat at Bonhams
MOCA Los Angeles Continues its MOCA Focus Series With Exhibition Featuring Lisa Lapinski	Faggionato Fir International A
The Vincent van Gogh Biennial Award for Contemporary Art in Europe 2008	Swiss Art Sale Private Collect
Artemisia Gentileschi's Judith and Holofernes on View at Museum of Fine Arts in Bilbao	Tate Modern is Works Acquire
Acclaimed Sculptor Andy Scott Works on The Kelpies to be Placed at Forth & Clyde Canal	Frieze Art Fair
Centre Pompidou Presents the First Ever French Exhibition Devoted to Czech Artist Miroslav Tichy	Madridfoto 201 Madrid
Photographs of Georgia O'Keeffe On View at the Portland Museum of Art	Sound and Vid Self-Portrait at
Christie's Offers The First Multi-Owner Selection Of Vintage Couture In New York	The New York
Large-Scale Color Photographs by Acclaimed Artist Phyllis Galembo at Eastman House	
Israel Museum Restitutes Three Ancient Roman Gold-Glass Medallions	
Museum of Arts and Design to Open in New Home on September 27	

Menu

Museums, Exhibits, Artists, Milestones, Digital Art, Architecture, Photographers, Special Photos, Special Reports, Featured Stories, Auctions, Anecdotes, Art Quiz, Education, Mythology, 3D Images, Last Week, 



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Aug 14, 2008 10:56 AM

August 2008 TOC

On The Cover

While the economic news has been bad, you wouldn't know it by looking at recent fine art auction sales. French artist Martial Raysse's "Snack" (a concoction of oil, acrylic, collage, plastic, wood and other media on canvas with neon lettering) was expected to go for a million and a half US, but sold for over \$2 million—\$2,318,327, to be exact. And that pales in comparison to the gavel price of other art sold at that same auction, Sotheby's July 1, 2008, London Contemporary Art extravaganza. For example:

- p. 20—Jean-Michel Basquiat's 1982-1983 acrylic, oil stick and paper collage on canvas, "Untitled (Pecho/Oreja)," sold for US \$10,144,240.
- p. 40—Francis Bacon's 1967 "Study for Head of George Dyer," an oil 14 by 12 inches, sold for a whopping US \$27,473,048.
- p. 58—Richard Prince's 93 by 56 inches "Overseas Nurse," done in inkjet print and acrylic on canvas, went for US \$8,467,258.
- p. 60—Yves Klein's "Ant 131," pigment in synthetic resin on paper laid on canvas, sold for US \$8,355,460. It was expected to fetch only about US \$2 million.

Briefing

12/ Tax Law Update

David A. Handler, partner in the Chicago office of Kirkland & Ellis LLP, reports:

- Provisions regarding tax character of distributions to charity must have a non-tax economic effect.
- Automatic extensions for trust, estate and partnership returns are reduced to five months.
- The Internal Revenue Service issued a private letter ruling approving the transfer of an IRA to a beneficiary's trust.
- And the Service is claiming that there are no valuation discounts for restricted management accounts.

14/ U.S. Giving Rises—But Only Slightly

David T. Leibell and Daniel L. Daniels, partners in the Stamford, Conn., office of Wiggin and Dana, LLP, report on the *Giving USA 2008* yearbook on philanthropy.

Condensed Transcript

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PATRICK CARIOU,

Plaintiff,

vs.

Index No.:

08 CIV 11327 (DAB)

RICHARD PRINCE, GAGOSIAN
GALLERY, INC., LAWRENCE
GAGOSIAN, and RIZZOLI
INTERNATIONAL PUBLICATIONS,
INC.,

Defendants.

VIDEOTAPED DEPOSITION OF

LAWRENCE GAGOSIAN

October 8, 2009

10:00 a.m.

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New York, New York

Bryan Nilsen, RPR
Notary Public of the State of New York



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<p style="text-align: center;">13</p> <p>1 Gagosian</p> <p>2 questioning to be objectionable and done</p> <p>3 for pure harassment.</p> <p>4 THE WITNESS: I said there was --</p> <p>5 MR. BROOKS: I didn't ask you a</p> <p>6 question.</p> <p>7 THE WITNESS: I said there was a</p> <p>8 matter involving taxes.</p> <p>9 MS. BART: Larry -- Larry, just let</p> <p>10 him -- he asks questions.</p> <p>11 BY MR. BROOKS:</p> <p>12 Q. So look at Plaintiff's Exhibit 47.</p> <p>13 Have you ever seen that document before?</p> <p>14 A. I don't recall.</p> <p>15 Q. Who is Peter Brant?</p> <p>16 A. Peter Brant is a friend of mine and</p> <p>17 art collector.</p> <p>18 Q. Is he the owner of Interview</p> <p>19 Magazine?</p> <p>20 A. He is now.</p> <p>21 Q. And do you have any recollection of</p> <p>22 this matter?</p> <p>23 A. Yeah, I do.</p> <p>24 Q. Now that you see the complaint?</p> <p>25 A. Yeah.</p>	<p style="text-align: center;">15</p> <p>1 Gagosian</p> <p>2 corporation?</p> <p>3 A. Yes.</p> <p>4 Q. Do you know in what state it's</p> <p>5 incorporated?</p> <p>6 A. I think New York.</p> <p>7 Q. And where is its principal place of</p> <p>8 business, if you know?</p> <p>9 A. 980 Madison avenue.</p> <p>10 Q. Now, at the beginning of this</p> <p>11 deposition you were asked for your residence</p> <p>12 address.</p> <p>13 A. I was asked for my address.</p> <p>14 Q. Okay.</p> <p>15 A. I don't think he said residence.</p> <p>16 Q. I'm asking you, what's your</p> <p>17 residence address?</p> <p>18 A. 147 East 69th Street.</p> <p>19 Q. In Manhattan?</p> <p>20 A. Manhattan.</p> <p>21 Q. Is 980 Madison Avenue the principal</p> <p>22 place of business of Gagosian Gallery?</p> <p>23 A. Yes, it is.</p> <p>24 Q. Is it a gallery or offices or both?</p> <p>25 A. Galleries have offices.</p>
<p style="text-align: center;">14</p> <p>1 Gagosian</p> <p>2 Q. It comes back to your recollection?</p> <p>3 A. No, I remember the matter, I just</p> <p>4 didn't remember whether it was a lawsuit. It</p> <p>5 was a complicated thing. I really don't</p> <p>6 remember exactly.</p> <p>7 I was deposed. I remember that.</p> <p>8 That's what I told you.</p> <p>9 Q. So this is a case in which you were</p> <p>10 deposed?</p> <p>11 A. I was deposed, yes.</p> <p>12 Q. And when I say this I'm referring to</p> <p>13 Plaintiff's Exhibit 47.</p> <p>14 A. That's correct.</p> <p>15 Q. Okay, thank you.</p> <p>16 What is your occupation?</p> <p>17 A. I'm an art dealer.</p> <p>18 Q. Now, in this case, the one that</p> <p>19 you're here for today, you're a defendant, you</p> <p>20 already said that, correct?</p> <p>21 A. Yes.</p> <p>22 Q. And Gagosian Gallery Inc. is a</p> <p>23 defendant, is that your understanding?</p> <p>24 A. Yes.</p> <p>25 Q. Is Gagosian Gallery Inc. a</p>	<p style="text-align: center;">16</p> <p>1 Gagosian</p> <p>2 Q. But there is a gallery at that --</p> <p>3 A. Yeah.</p> <p>4 Q. -- location? Okay.</p> <p>5 I know you're trying to answer my</p> <p>6 question, but try to wait until I'm finished.</p> <p>7 Your lawyer may want to object, and also the</p> <p>8 court reporter, if we're talking over each</p> <p>9 other, he won't be able to get my question or</p> <p>10 your answer.</p> <p>11 A. Thank you.</p> <p>12 Q. Are you an officer of Gagosian</p> <p>13 Gallery Inc.?</p> <p>14 A. I believe I am.</p> <p>15 Q. What is the title that you hold?</p> <p>16 A. President.</p> <p>17 Q. Are you the CEO?</p> <p>18 A. I don't think we have a CEO.</p> <p>19 I don't know.</p> <p>20 Q. Are there any other officers?</p> <p>21 A. I have a secretary.</p> <p>22 Q. And who is the secretary?</p> <p>23 A. Melissa Lazarov.</p> <p>24 Q. Can you spell that, please?</p> <p>25 A. L-A-Z-A-R-O-V.</p>

17	19
1 Gagosian	1 Gagosian
2 Q. She's the secretary with a capital S	2 Q. New York, you have several in
3 of the corporation?	3 New York?
4 A. I believe so.	4 A. Three.
5 Q. She keeps the books?	5 Q. Three. One on 24th Street?
6 A. She's not the bookkeeper. She's the	6 A. One on 21st and then Madison.
7 secretary.	7 Q. London?
8 Q. She keeps the minute books?	8 A. London, two.
9 A. Not necessarily.	9 Q. Two in London.
10 Q. Are you a director of that	10 And do you have one in Italy?
11 corporation?	11 A. Rome. And we just opened one in
12 A. I don't know.	12 Athens, Greece.
13 Q. Is there a board of directors?	13 Q. And do you have one in Paris or are
14 A. I don't think so.	14 you in the process of opening one?
15 Q. Are you a shareholder of Gagosian	15 A. I don't have one in Paris.
16 Gallery Inc.?	16 Q. Are you in the process of opening
17 A. I believe I'm the sole owner.	17 one?
18 Q. So you believe you're a hundred	18 A. I'm thinking about it.
19 percent shareholder?	19 Q. And are there any others?
20 A. That's my understanding. Actually,	20 You mentioned Hong Kong has an
21 I think my sister may have -- we may have given	21 office. Are there any other galleries?
22 my sister a small piece of it so I can provide	22 A. No, I don't think so. Not that I
23 her with some money.	23 can think of.
24 Q. What is her name?	24 Q. Are you involved, you personally, in
25 A. Judy Womble.	25 any other business -- businesses other than as
18	20
1 Gagosian	1 Gagosian
2 Q. Can you spell that?	2 the owner of these art galleries?
3 A. W-O-M-B-E-L - B-L-E, B-E-L.	3 MS. BART: Objection, form.
4 Q. Are you affiliated with any other	4 You're limiting it to in the art
5 corporations other than Gagosian Gallery Inc.	5 industry or?
6 that are in the art business?	6 MR. BROOKS: I think he already
7 A. I'm not sure.	7 answered that. Well, maybe he didn't.
8 Q. Let's talk about just Gagosian	8 BY MR. BROOKS:
9 Gallery Inc. then. Do you know how many	9 Q. Are you involved in any other
10 employees Gagosian Gallery Inc. has?	10 businesses in the art industry?
11 A. I think a little over a hundred.	11 A. In the art industry? I don't think
12 Q. And how many locations -- withdrawn.	12 so. I -- I don't think so.
13 Those employees are situated at how	13 Q. What about outside of the art
14 many locations?	14 industry?
15 A. I have to count.	15 MS. BART: Objection, form and
16 Eight. I believe it's eight. Eight	16 scope.
17 or nine. Eight I think.	17 Q. You can answer.
18 Q. And are those all galleries?	18 A. I'm sorry, what did you say?
19 A. They're all galleries except we have	19 Q. You can answer the question.
20 an office in Hong Kong.	20 A. I can answer the question?
21 Q. That's not a gallery?	21 Q. Yes.
22 A. It's more of an office.	22 MS. BART: Unless I instruct you --
23 Q. Let's see. You have an office -- a	23 don't take the instructions from him. You
24 gallery in Beverly Hills, is that correct?	24 can take them from me --
25 A. Right.	25 THE WITNESS: Well, should I answer

21	23
<p>1 Gagosian</p> <p>2 the question or not?</p> <p>3 MS. BART: Yes, you can answer the</p> <p>4 question.</p> <p>5 A. I have an interest in a Mexican</p> <p>6 restaurant.</p> <p>7 Q. Blue Parrot?</p> <p>8 A. Blue Parrot.</p> <p>9 Q. In East Hampton?</p> <p>10 A. Exactly.</p> <p>11 Q. With Ronald Perelman?</p> <p>12 A. And Richard Prince and Renée</p> <p>13 Zellweger and Bon Jovi.</p> <p>14 Q. Are there Prince artworks hanging in</p> <p>15 that restaurant?</p> <p>16 A. There are.</p> <p>17 Q. Can you tell us the nature of those</p> <p>18 artworks?</p> <p>19 A. It's a Mexican restaurant. And as</p> <p>20 a partner, Richard had the idea to put these</p> <p>21 collages on the wall that reference the movie</p> <p>22 Viva Zapata.</p> <p>23 Q. Other than this Mexican restaurant</p> <p>24 are there any other non-art-related businesses</p> <p>25 that you're involved in?</p>	<p>1 Gagosian</p> <p>2 Q. With respect to Richard Prince is</p> <p>3 your -- do you represent Richard Prince, your</p> <p>4 gallery?</p> <p>5 A. We do.</p> <p>6 Q. Is that an exclusive --</p> <p>7 A. No.</p> <p>8 Q. -- representation?</p> <p>9 A. No.</p> <p>10 Q. Is he also represented by Barbara</p> <p>11 Gladstone Gallery?</p> <p>12 A. No, no.</p> <p>13 Q. Do you know who else he's</p> <p>14 represented by?</p> <p>15 A. He's represented -- I think he's</p> <p>16 still represented by Sadie Coles in London. I'm</p> <p>17 not sure what the status of the relationship is,</p> <p>18 but I believe he's still represented by Sadie</p> <p>19 Coles in London.</p> <p>20 Q. C-O-L-E-S?</p> <p>21 A. Yes.</p> <p>22 Q. Any others, to your knowledge?</p> <p>23 A. Not to my knowledge.</p> <p>24 Q. Now, I understand Gagosian Gallery</p> <p>25 Inc. does not have any written agreement with</p>
22	24
<p>1 Gagosian</p> <p>2 A. I don't think so. Not that I can</p> <p>3 think of.</p> <p>4 Q. Does Gagosian Gallery represent some</p> <p>5 artists?</p> <p>6 A. Yes, we do.</p> <p>7 Q. And what services in general do you</p> <p>8 render for the artist that you represent?</p> <p>9 Not you --</p> <p>10 MS. BART: Objection.</p> <p>11 Q. -- but Gagosian Gallery Inc.?</p> <p>12 MS. BART: Objection, form.</p> <p>13 You can answer.</p> <p>14 A. We render the same services most</p> <p>15 galleries do. We sell the work, we display the</p> <p>16 work, we promote the work, we produce catalogs,</p> <p>17 we organize museum shows.</p> <p>18 Pretty much what -- you know, pretty</p> <p>19 typical dealer/artist relationships.</p> <p>20 Q. When you represent an artist is it</p> <p>21 normally an exclusive relationship?</p> <p>22 MS. BART: Objection, form.</p> <p>23 A. It varies.</p> <p>24 Q. Sometimes it is, sometimes it isn't?</p> <p>25 A. That's right.</p>	<p>1 Gagosian</p> <p>2 Mr. Prince, is that correct?</p> <p>3 A. That's correct.</p> <p>4 Q. Do you normally have written</p> <p>5 agreements with the artists you represent?</p> <p>6 A. No.</p> <p>7 Q. Do you ever?</p> <p>8 A. I think so. Like I'd have to, you</p> <p>9 know, scratch my head. But it's less -- it's</p> <p>10 not that frequent.</p> <p>11 Q. When did Gagosian Gallery Inc.</p> <p>12 commence representing Mr. Prince?</p> <p>13 A. We had our first exhibition I</p> <p>14 believe four years ago. You know, I could be</p> <p>15 off by a year. At that time we were not his</p> <p>16 exclusive or primary gallery, but we did an</p> <p>17 exhibition with him.</p> <p>18 Q. Are you his primary gallery now?</p> <p>19 A. Yes.</p> <p>20 Q. Where was the exhibition -- no one's</p> <p>21 going to hold you to this -- four years ago or</p> <p>22 whenever?</p> <p>23 A. It was in Los Angeles.</p> <p>24 Q. In Los Angeles.</p> <p>25 Was the Canal Zone show his first</p>

<p style="text-align: center;">25</p> <p>1 Gagosian 2 solo show for Gagosian Gallery Inc.? 3 A. No. 4 Q. Was it his first solo show in 5 New York for the Gagosian Gallery Inc.? 6 A. I believe so. 7 Q. And when I say the Canal Zone show 8 you know what I'm talking about? 9 A. Yes, I do. 10 Q. The one in November and December of 11 last year? 12 A. Right. 13 Q. Do you have any financial 14 arrangement with Mr. Prince? 15 A. I sell his paintings. 16 Q. At the inception of the relationship 17 was any payment made to him by you or your 18 gallery? 19 MS. BART: Objection, form. 20 A. You mean like a bonus or something? 21 What do you mean by a payment? 22 Q. You know, like a retainer payment -- 23 A. I don't think so. 24 Q. -- payments -- 25 A. Not that I recall.</p>	<p style="text-align: center;">27</p> <p>1 Gagosian 2 MS. BART: Objection, form. 3 A. No. 4 MR. BROOKS: So let's mark as 5 Plaintiff's Exhibit 44. 6 (Plaintiff's Exhibit 44, string of 7 e-mails, was marked for identification, as 8 of this date.) 9 MR. BROOKS: Did we withdraw 43 10 yesterday? I don't remember what we said 11 on the record. 12 MS. BART: You withdrew it. 13 MR. BROOKS: We withdrew it, okay. 14 MS. BART: But wait, but then you 15 substituted it for 43A, B, C and D. 16 MR. BROOKS: Okay. That's what I 17 thought. Okay. 18 MR. HAYES: So there's no 43, but 19 there's a 43A through D? 20 MR. BROOKS: Yeah. 21 BY MR. BROOKS: 22 Q. Okay. Could you take a look at 23 Plaintiff's -- oh, you are looking at it. 24 A. I am. 25 Q. This is a string of e-mails, so I'm</p>
<p style="text-align: center;">26</p> <p>1 Gagosian 2 (Multiple speakers talking at once.) 3 (Interruption by reporter.) 4 MS. BART: Let him finish his 5 question. 6 THE WITNESS: I'm sorry. 7 BY MR. BROOKS: 8 Q. Let me say it -- a payment that was 9 made to him so that he would, in exchange for 10 which he would remain with you for a period of 11 time? 12 A. I don't believe so. 13 MS. BART: Objection, form. 14 A. Sorry. 15 Q. You don't believe so? 16 A. I don't recall. 17 Q. You don't recall? 18 A. I think not. But my memory is not 19 perfect. 20 MS. BART: That's it. 21 (Discussion off the record.) 22 BY MR. BROOKS: 23 Q. With respect to the Canal Zone 24 exhibition in November-December of 2008 did you 25 personally curate that show?</p>	<p style="text-align: center;">28</p> <p>1 Gagosian 2 going to start at the bottom and work -- you 3 send e-mails, don't you, in your ordinary course 4 of business? 5 A. Yeah. 6 Q. And you receive them? 7 A. Yeah. 8 Q. So you're familiar with e-mails? 9 A. Yeah. 10 Q. And when they're printed out you 11 know how that works, if there's a chain that 12 there's an e-mail and a reply and another reply? 13 A. Right. 14 Q. Okay, fine. So in this case let's 15 start with the one that was sent by James McKee 16 to Louise Neri, N-E-R-I, on October 24th, 2008. 17 Do you know either of these people? 18 A. I know Louise. I'm not sure who 19 James is. 20 Q. James McKee, you don't know if he's 21 an employee of yours? 22 A. Well, it says at Gagosian, so he 23 must be. He's using our e-mail address. 24 Q. Right. 25 A. I just don't -- we have a lot of</p>

57	59
<p>1 Gagosian</p> <p>2 was a collaborative effort. Do you remember</p> <p>3 saying that?</p> <p>4 A. Yeah, usually, right.</p> <p>5 Q. And in this case it was?</p> <p>6 A. Yes.</p> <p>7 Q. And I think you mentioned somebody</p> <p>8 named Sam in that answer, do you recall?</p> <p>9 A. Yes, I do.</p> <p>10 Q. And is this Sam Orlofsky --</p> <p>11 A. Yes.</p> <p>12 Q. Is he one of the people who was</p> <p>13 involved? Yes?</p> <p>14 A. Yeah.</p> <p>15 MS. BART: You have to answer yes or</p> <p>16 no.</p> <p>17 MR. BROOKS: What's the problem?</p> <p>18 MS. BART: I was just saying he has</p> <p>19 to answer yes or no.</p> <p>20 THE WITNESS: She's telling me how</p> <p>21 to answer.</p> <p>22 MS. BART: Well, no, I'm not. I'm</p> <p>23 just saying --</p> <p>24 MR. BROOKS: I know what you mean.</p> <p>25 THE WITNESS: The form of answer.</p>	<p>1 Gagosian</p> <p>2 apologize, but where does she work?</p> <p>3 A. Los Angeles.</p> <p>4 Q. I think you said that, right.</p> <p>5 Were celebrities invited to this</p> <p>6 dinner?</p> <p>7 A. I don't recall.</p> <p>8 Q. Were people from MOMA invited?</p> <p>9 A. Most likely.</p> <p>10 Q. And that would be an acronym for the</p> <p>11 Museum of Modern Art?</p> <p>12 A. Correct.</p> <p>13 Q. Were people from the Guggenheim and</p> <p>14 Whitney museums invited?</p> <p>15 A. I would assume so.</p> <p>16 Q. And then it says and other clients</p> <p>17 who will, capital letters, buy his work. Did</p> <p>18 you play a role in making sure that the clients</p> <p>19 who were invited would be likely to buy</p> <p>20 Mr. Prince's work?</p> <p>21 MS. BART: Objection, form.</p> <p>22 A. Well, you want to invite a range of</p> <p>23 people, some of them because they're friends of</p> <p>24 the artist, some of them because they're known</p> <p>25 to collect the work, others because they have a</p>
58	60
<p>1 Gagosian</p> <p>2 MR. BROOKS: Right. She's saying</p> <p>3 you shouldn't nod your head.</p> <p>4 THE WITNESS: Right.</p> <p>5 BY MR. BROOKS:</p> <p>6 Q. Sam Orlofsky works for you?</p> <p>7 A. Yes, he does.</p> <p>8 Q. These other people -- and I'm not</p> <p>9 going to read all the names, but the other</p> <p>10 people listed on this Exhibit 49 -- A, were they</p> <p>11 all Gagosian employees, and, B, were any of them</p> <p>12 involved in curating the show?</p> <p>13 A. I don't recall which of them were</p> <p>14 involved specifically, no.</p> <p>15 Q. Are they all Gagosian employees, to</p> <p>16 your knowledge?</p> <p>17 A. I would assume so.</p> <p>18 Q. You mentioned a Candy Coleman</p> <p>19 before, do you recall that?</p> <p>20 A. Yes.</p> <p>21 Q. And she's -- her name seems to be in</p> <p>22 the middle of this list of addressees, do you</p> <p>23 see that?</p> <p>24 A. I do.</p> <p>25 Q. If I asked you this before, I</p>	<p>1 Gagosian</p> <p>2 museum status. So it's a mix of people, but you</p> <p>3 always want to include customers.</p> <p>4 Q. And do you also want to include</p> <p>5 celebrities to generate some buzz for the show?</p> <p>6 A. Yeah --</p> <p>7 MS. BART: Objection, form, and</p> <p>8 asked and answered.</p> <p>9 Q. You can answer.</p> <p>10 A. Yeah. Yeah.</p> <p>11 Q. So in connection with this</p> <p>12 particular show -- withdrawn.</p> <p>13 MR. BROOKS: Let's mark as</p> <p>14 Plaintiff's Exhibit 50 an e-mail -- this</p> <p>15 is a string of e-mails in October 2008.</p> <p>16 (Plaintiff's Exhibit 50, string of</p> <p>17 e-mails, was marked for identification, as</p> <p>18 of this date.)</p> <p>19 Q. The first e-mail appears to be from</p> <p>20 Barbara Wilhelm Dwek, D-W-E-K. Is she somebody</p> <p>21 who works at the gallery at which the show took</p> <p>22 place?</p> <p>23 A. At that time I believe she did.</p> <p>24 Q. And there's an e-mail above that</p> <p>25 from Karen Ho saying these are the people</p>

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* * * ERRATA SHEET * * *

VIDEOTAPED DEPOSITION OF LAWRENCE GAGOSIAN
TAKEN: OCTOBER 8, 2009

The following corrections, additions, or deletions are noted for the following reasons:

PAGE	LINE	CHANGE	REASON
64	13	Rasta man to Rastaman	Transcription Error
74	17	Delete "Do you know if he was at the dinner?" [It appears twice. See Page 74 line 16].	Transcription Error
75	18-19	Delete "Did either of them buy a Richard Price Canal Zone painting?" [It appears twice. See Page 75 lines 16-17].	Transcription Error
75	23	Mark to Marc	Transcription Error
80	21	"head of kind of design" to "head of design"	Transcription Error
115	21	Rasta man to Rastaman	Transcription Error
130	3	2008 dot 0044 to 2008.0044	Transcription Error
137	23	veterans to Veterans	Transcription Error
138	24	disco ball to Disco Ball	Transcription Error
139	3	disco ball To Disco Ball	Transcription Error
142	23	accountant To accountant's	Transcription Error
146	11	2008 dot 0044 to 2008.0044	Transcription Error

Sworn before me this 19th
day of November, 2009


 LAWRENCE GAGOSIAN

 NOTARY PUBLIC

658382.1.
 ROBERT B. KURZBERG
 Notary Public, State of New York
 No. 31-4731815
 Qualified in New York County
 Commission Expires 2/28/2011

Lawrence Gagosian

October 8, 2009

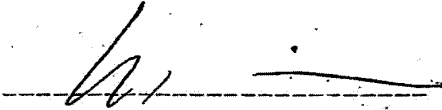
177

CERTIFICATE

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STATE OF :
COUNTY/CITY OF :

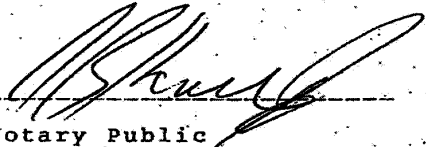
Before me, this day, personally appeared,
LAWRENCE GAGOSIAN, who, being duly sworn, states that the
foregoing transcript of his/her Deposition, taken in the
matter, on the date, and at the time and place set out
on the title page hereof, constitutes a true and accurate
transcript of said deposition.



LAWRENCE GAGOSIAN

SUBSCRIBED and SWORN to before me this
3rd day of November, 2009 in the
jurisdiction aforesaid.

ROBERT B. KURZBERG
Notary Public, State of New York
No. 31-4731915
Qualified in New York County
Commission Expires 2/28/2011



My Commission Expires Notary Public

*If no changes need to be made on the following two pages,
place a check here , and return only this signed page.

By permission of the Court, this
exhibit was filed by hand.

See Exhibit 1 to the Joint Appendix
Hard Copy of Richard Prince's Book entitled
Canal Zone

Gagosian Gallery
General Ledger
For the Period From Oct 1, 2008 to Jun 30, 2009

Account ID	Account Description	Date	Reference	Jrnl	Trans Description	Debit Amt	Credit Amt	Balance
6255-00	Advertising & PR	10/10/08	37162	PJ	Absolutecolor - RICHARD PRINCE ADS	579.81		579.81
6255-00	Advertising & PR	10/29/08	37243	PJ	Absolutecolor - RICHARD PRINCE ADS	200.49		200.49
6255-00	Advertising & PR	9/15/08	37000	PJ	Absolutecolor - RICHARD PRINCE ADS	1,658.14		1,658.14
6255-00	Advertising & PR	9/19/08	37046	PJ	Absolutecolor - RICHARD PRINCE ADS	189.66		189.66
6255-00	Advertising & PR	9/19/08	37039	PJ	Absolutecolor - RICHARD PRINCE ADS	254.68		254.68
6255-00	Advertising & PR	9/29/08	37124	PJ	Absolutecolor - RICHARD PRINCE ADS	81.28		81.28
6220-00	Exhibition Expenses	12/11/08	7661-006	PJ	Art Crating, Inc. - de-install Prince show at 555 W 24th	5,998.11		5,998.11
6219-00	Exhibition Expenses	12/1/08	7661-005	PJ	Art Crating, Inc. - Install Richard Prince show at 555 W 24th	17,380.14		17,380.14
6219-00	Freight Out	10/3/08	7661-004	PJ	Art Crating, Inc. - Pick up Richard Prince works	7,229.08		7,229.08
6220-00	Exhibition Expenses	11/3/08	6768-005	PJ	Art Crating, Inc. - PRINCE SHOW Install	1,125.18		1,125.18
6220-00	Exhibition Expenses	11/3/08	6768-005	PJ	Art Crating, Inc. - Equipment Rental	4,439.68		1,479.89
6219-00	Freight Out	11/18/08	6768-006	PJ	Art Crating, Inc. - Equipment rental for Gagosian Gallery Chelsea	1,479.89		1,479.89
		10/31/08	070653	PJ	Art in America - Prince ad	6,451.50		6,451.50
6255-00	Advertising & PR	10/21/08	992047001	PJ	Conde Nast Publications - Prince ad for W Magazine	10,839.50		10,839.50
6255-00	Advertising & PR	11/1/08	105088	PJ	Artforum International - RICHARD PRINCE FULL PAGE AD	5,600.00		5,600.00
6255-00	Advertising & PR	11/1/08	01393	PJ	The Art Newspaper - Prince ad	3,750.00		3,750.00
6255-00	Advertising & PR	10/15/08	AA0811035	PJ	Louise Blouin Media - Art and Auction Magazine - Prince ad	12,000.00		12,000.00
6255-00	Advertising & PR	1/1/08	A01749828	PJ	Financial Times Ltd. - Prince ad	13,600.00		13,600.00
6257-05	Freight in	10/31/08	2591	PJ	Echelon - RICHARD PRINCE COLOR SEPARATIONS	16,523.00		16,523.00
6220-00	Exhibition Expenses	12/1/08	12.01.2008	PJ	Elite Systematic Art Inc - SERVICES FOR OCTOBER 2008 - RICHARD PRINCE SHOW	5,385.00		5,385.00
6220-00	Exhibition Expenses	11/19/08	50039608	PJ	Elite Investigations, Ltd - Security	5,125.37		5,378.75
6220-00	Exhibition Expenses	11/26/08	50039693	PJ	Elite Investigations, Ltd - Security	5,004.90		3,400.00
6220-00	Exhibition Expenses	12/3/08	50039770	PJ	Elite Investigations, Ltd - Security	4,163.70		2,677.00
6220-00	Exhibition Expenses	12/17/08	50039947	PJ	Elite Investigations, Ltd - Security for 12/07/08 - 12/13/08	10,773.29		3,287.75
6220-00	Exhibition Expenses	12/24/08	50840031	PJ	Elite Investigations, Ltd - Services for 12/14/08 - 12/20/08	3,684.75		2,865.00
6220-00	Exhibition Expenses	10/25/08	GRD038318	PJ	Global Research Distribution - RICHARD PRINCE ANNOUNCEMENT MAILING	808.40		808.40
6255-00	Advertising & PR	10/21/08	Q-1963	PJ	Graphic Thought Facility - Richard Prince (West 24th St) Advertisement	1,887.41		1,887.41
6255-00	Advertising & PR	11/17/08	Q-1962	PJ	Graphic Thought Facility - Richard Prince (West 24th St) Announcement Card	1,119.65		1,119.65
6257-00	Books and Catalogs	1/22/09	05-122465	PJ	Imprimeries Transcontinentales S - richard prince hardcover	34,340.42		34,340.42
6260-00	Photography	11/19/08	11192008	PJ	Jeze Israel - Video Production and edit Serra Giacometti/Saeco Prince, Sugimoto	138,967.76		132,019.37
6220-00	Exhibition Expenses	11/18/08	162989-01	PJ	Shapco Printing Inc. - Richard Prince Card	2,400.00		600.00
6255-00	Advertising & PR	12/31/08	019346	PJ	The New York Times - Prince and Serra	6,121.50		23,667.87
6255-00	Advertising & PR	11/30/08	011413	PJ	The New York Times - Billing Period 11/01/08-11/30/08	34,689.00		3,060.75
		11/13/08		PJ	American Express - Gramercy Park - Dinner	64,057.81		22,466.00
		10/28/08		PJ	American Express - Gramercy Park - Dinner	21,436.94		64,057.81
		12/11/08		PJ	Horseless Carriage - delivery of Prince car for Canal Zone	1,800.00		21,436.94
								1,800.00

434,730.47

Financial Times November 1, 2008

Gagosian November

Alberto Giacometti Francis Bacon

Isabel and Other Intimate Strangers 980 Madison Avenue New York

Richard Serra

Solids 980 Madison Avenue New York
Sculpture 6-24 Britannia Street London
Drawing 17-19 Davies Street London

Untitled (Vicarious)

Roger Ballen, Gregory Crewdson, Thomas Demand, Shannon Ebner,
Peter Fischli & David Weiss, Sara Greenberger Rafferty, Anne Hardy, Leslie Hewitt,
László Moholy-Nagy, Carter Mull, Vik Muniz, Hélio Oiticica & Neville D'Almeida,
Cindy Sherman, David Smith, Hiroshi Sugimoto, Wolfgang Tillmans,
Sara VanDerBeek, James Welling
980 Madison Avenue 5th floor New York

Richard Prince

555 West 24th Street New York

Hiroshi Sugimoto

522 West 21st Street New York

Rachel Whiteread

458 North Camden Drive Beverly Hills

Lawrence Weiner

16 Via Francesco Crispi Rome

www.gagosian.com

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New York Times November 7, 2008

Gagosian

Richard Prince

November 8–December 20, 2008
555 West 24th Street New York NY 10011
T. 212.741.1111

Hiroshi Sugimoto 7 Days / 7 Nights

November 6–December 20, 2008
522 West 21st Street New York NY 10011
T. 212.741.1717

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GG0072

Gagosian Gallery

Alberto Giacometti Francis Bacon

Isabel and Other Intimate Strangers 980 Madison Avenue New York

Richard Serra

Solids 980 Madison Avenue New York
Sculpture 6-24 Britannia Street London
Drawing 17-19 Davies Street London

Untitled (Vicarious)

Roger Ballen, Gregory Crewdson, Thomas Demand, Shannon Ebner, Peter Fischli & David Weiss,
Sara Greenberger Rafferty, Anne Hardy, Leslie Hewitt, László Moholy-Nagy, Carter Mull,
Vik Muniz, Hélio Oiticica & Neville D'Almeida, Cindy Sherman, David Smith, Hiroshi Sugimoto,
Wolfgang Tillmans, Sara VanDerBeek, James Welling
980 Madison Avenue 5th floor New York

Richard Prince

555 West 24th Street New York

Hiroshi Sugimoto

7 Days / 7 Nights 522 West 21st Street New York

Rachel Whiteread

456 North Camden Drive Beverly Hills

Lawrence Weiner

Quid Pro Quo 16 Via Francesco Crispi Rome

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GG0073

New York Times November 21, 2008

Gagosian

Alberto Giacometti Francis Bacon

Isabel and Other Intimate Strangers
November 3 – December 13, 2008
980 Madison Avenue New York NY 10075
T. 212.744.2313

Richard Serra

Solids November 3 – December 20, 2008
980 Madison Avenue New York NY 10075
T. 212.744.2313

Richard Prince

November 8 – December 20, 2008
555 West 24th Street New York NY 10011
T. 212.741.1111

Hiroshi Sugimoto

7 Days / 7 Nights November 6 – December 20, 2008
522 West 21st Street New York NY 10011
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GG0074

New York Times December 19, 2008

Gagosian

Richard Serra Solids

November 4 – December 20, 2008
980 Madison Avenue New York NY 10075
T. 212.744.2313

Richard Prince

November 8 – December 20, 2008
555 West 24th Street New York NY 10011
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GG0075

Art + Auction November 2008

November 8 –
December 20, 2008

Gagosian Gallery
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RICHARD PRINCE

**November 8 –
December 20, 2008**

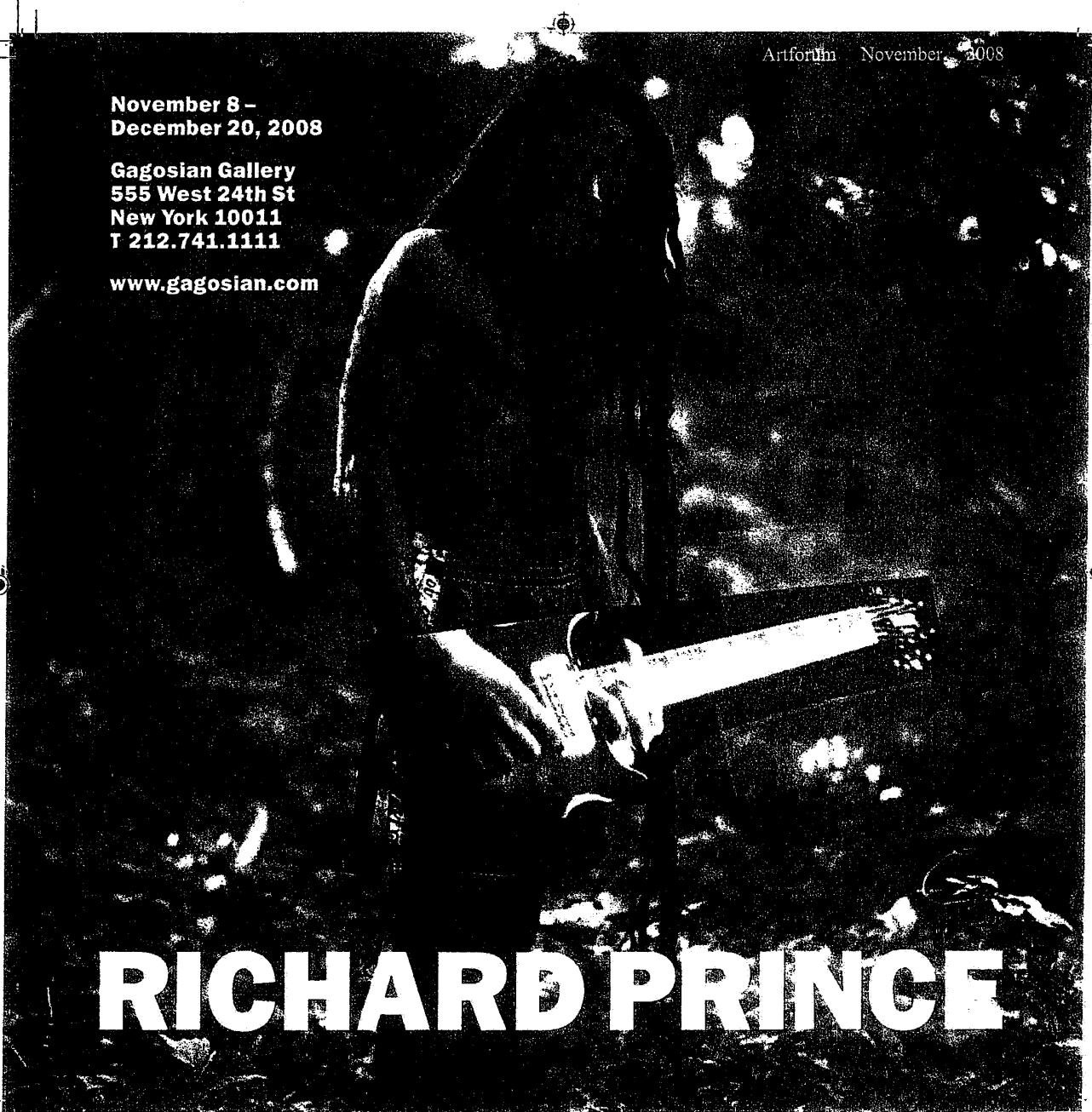
**Gagosian Gallery
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New York 10011
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Art in America November 2008



RICHARD PRINCE



Artforum November 2008

November 8 –
December 20, 2008

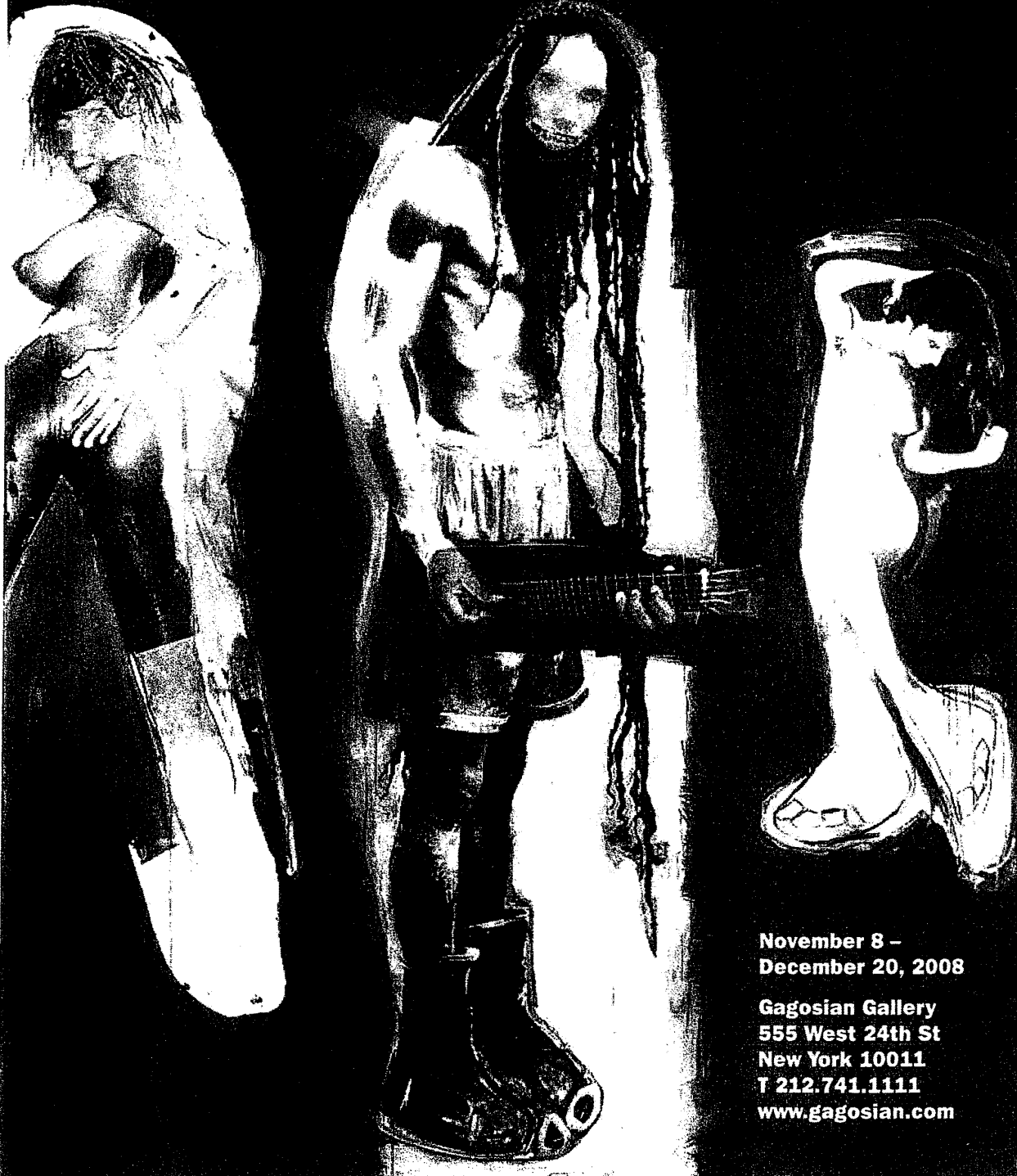
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RICHARD PRINCE

W magazine November 2008

RICHARD PRINCE



November 8 –
December 20, 2008

Gagosian Gallery
555 West 24th St
New York 10011
T 212.741.1111
www.gagosian.com

Richard Prince
November 8, 2008
Gramercy Park Hotel

TITLE	LASTNAME	FIRSTNAME	STAFF	NUMBER
	Abramovich and Dasha Zhukova	Roman	LG	
	Ames	Ann and Steven	LN	
	Anderson	Pamela	RP	
	Andich	Lidia	LG	0
	Arabov	Jacob and Angela	VG	2
Mr.	Armstrong	Richard	LG	0
	Arnault	Bernard	RP	0
Mr.	Arslanian and Cecile	Ara	LG	2
	Ash and Peter Ezersky	Lorinda	ML	2
	Atencio Demirdjian	Tiqui	VG	2
	Aven	Peter	VG	
	Avini	Andy	GG	1
	Baibakov	Maria	VG	1
	Baron and Ludivine Poiblan	Fabien	RP	2
	Basilico	Stefano	LG/SO	1
	Bauer and Jemilah Afshar	Sasha	ML	2
	Baybakov and Lena	Oleg	LG	2
	Belchanskaya	Marianna	VG	
	Bell	William and Maria	LG/RP	0
	Berger	Karen and Martin	LN	
Mr.	Berggruen	Nicolas	LG	0
	Berggruen	Oliver	LG	1
	Bernardi	David	CC	0
	Beyer	Michele	LN	
	Biesenbach	Klaus	LN	
	Biscone and Rob Currie	Betsy	RP	2
Mr. and Mrs.	Black	Leon	LG	0
	Blair	Dike	RP	
Mr. and Mrs.	Blavatnik	Len	LG	
	Bonami	Francesco	LN	
	Bono and Ali Hewson		LG	
	Bowes	Frances	RV	0
Mr. and Mrs.	Brant	Peter	LG	3
	Breus	Shalva	VG	
Mr. and Mrs.	Broad	Eli	LG	2
	Brown and Nicolai Ouroussoff	Cecily	LG/RP	0
	Brown and John Melick	Eric	RP	2
	Bullock	Janna	LN	
	Bundchen and Tom Brady	Gisele	LG	
	Bush	Barbara	LG/MD	0
	Bush	Lauren	LG/MD	0
	Busson	Arki	VG	0
Mr.	Burgess	Rupert	LG	0
	Bushnell	Candace	LG	
	Butler and David Schafer	Cornelia	RD	0
	Butler	Gerry	VG	
	Calicchio	Denise LeFrak	LN	
	Carmignac	Edouard	VG	0
Mr. and Mrs.	Carter	Graydon	LG	0

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Richard Prince
November 8, 2008
Gramercy Park Hotel

TITLE	LASTNAME	FIRSTNAME	STAFF	NUMBER
	Carter and Beyonce Knowles	Sean	LG	
	Casdin	Alex	VG	
	Castellani	Valentina	GG	1
	Catone	Gabriel	VG	1
	Chatila	Abdallah	VG	
	Chebotarev	Leeza	GG	0
	Chigirinsky	Shalva	VG	
	Christiansen	Helena	LG	
	Cicognani	Pietro	VG	
	Cisneros	Ella	VG	
	Coca Moroder	Borja	VG	
	Cohen	Adam	GG	1
	Cohen and quest	Lyor	RP	
	Cohen	Pippa	ML	1
Mr. and Mrs.	Cohen	Steven	LG/RP	0
Mr.	Colacello	Bob	LG	
	Coleman	Candy	GG	1
	Colen	Dan	SR	
	Coppola	Sofia	RP	
	Costeletos	Philippe	VG	0
	Crane	Andrea	GG	0
	Cruz	Penelope	LG	
Mr.	Currin and Ms. Rachel Feinstein	John	LG/RP	2
	Dafoe	Willem	PMF	
	Dalrymple	Clarissa	RP	0
	David	Kristen	NS	0
Ms.	de Kooning	Lisa	LG	
	De Niro and Grace Hightower	Robert	LG	
	De Salvo	Donna	LG	1
Mr. and Mrs.	Dean	Thompson	LG	0
Mr.	Del Roscio	Nicola	LG	
	Dellal	Alex	VG	
	Dellal	Guy	VG	
Mr. and Mrs.	Delsener	Ron	LG/RP	2
Mr.	Demarchelier	Patrick	LG	
	Dent-Brocklehurst and Duncan Ward	Mollie	LG	
	Denuccio	Salvatore	VG	
	Depp and Vanessa Paradis	Johnny	LG	
	DiCaprio and quest	Leonardo	LG	
	Di Fabio	Alberto	AF	2
	D'Orazio	Sante	VG	2
	Doronin	Vladislav	LG	
	Dourdan	Gary	VG	
	Downey Jr.	Robert	CC	
	Dunn	Meredith	GG	1
	Eberle and Richard Pandiscio	Todd	LG	
Mr.	Edlis & Ms. Gael Neeson	Stefan	RP	2
	Einarsson	Gardar Eine	VG	
	Eisner	Lisa	NJ	1
Mr.	Elderfield	John	LG	0

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Richard Prince
November 8, 2008
Gramercy Park Hotel

TITLE	LASTNAME	FIRSTNAME	STAFF	NUMBER
	Evans	Michael and Lise	LG/RP	
	Fakhoury	Pierre	LG	
	Falckenberg	Harald	VG	0
	Fertitta	Frank	LG	
Mr. and Mrs.	Fertitta	Lorenzo	LG	
Princess	Firyal		VG	
	Fisch	Mark	VG	0
	Fischbach	Linda	LN	
	Fischl and April Gornik	Eric	LG	
	Florio	Tom	VG	
	Foster	Carter	RD	1
	Foster and Sandy Tait	Hal	MF	2
	Franchi	Pepi Marchetti	GG	1
	Francis	Mark	GG	1
	Franco and guest	James	LG	
	Franzen	Jonathan	LG	
	Freedman	Denis	RP	0
Mr. and Mrs.	Fremont	Vincent	LG	2
	Frey	James and Maya	LG/RP	5
	Fridman	Mikhail	LG	
	Friedland	Leonid	VG	
	Fuhrman	Glenn	VG	
	Furman	Richard	VG	
	Gagosian	Larry	GG	2
	Gallagher and Edgar Clinje	Ellen	BM	2
Mr.	Gallipoli	Frank and Christine	RP	2
Mr. and Mrs.	Ganek	David	LG/RP	2
	Ganek	Judie and Howard	LN	
	Garibashvili	Irakli	VG	
	Garavani and Giancarlo Giammetti	Valentino	LG	
	Garza	Ramiro and Gabriela	LG	
	Gaydamak	Katia	VG	
	Gelfand	Victoria	GG	1
Ms.	Gingeras and Piotr Uklanski	Alison M.	LG/RP	2
	Gioni	Massimiliano	VG	
Mr.	Gluckman and Ms. Tiffany Bell	Richard	LG	0
	Gol	Ishaia	VG	
	Good	John	GG	1
	Gonzalez	Manuel	LN	
	Gordeev	Sergei	VG	
	Gordon and Thurston Moore	Kim	RP	2
Mr. and Ms.	Gottesman	Noam	LG	0
	Graff	Laurence	VG	
	Grant	Hugh	RP	
	Grazer	Brian	LG/CC	0
	Greenberg-Rohatyn and Nicholas Rohatyn	Jeanne	RP	2
	Grotjahn and Jennifer Guidi	Mark	LG	0
Ms.	Gund and Mr. Daniel Shapiro	Agnes	LG	0
Ms.	Halbreich	Kathy	LG	0

Richard Prince
November 8, 2008
Gramercy Park Hotel

TITLE	LASTNAME	FIRSTNAME	STAFF	NUMBER
	Hammerstein	Simon	VG	
	Hanson	Dian	RP	
	Harland	Chris	VG	1
	Harris	Naomi	RP	1
	Harris	Nicki	LN	
	Hartnett	Josh	LG	
	Hearst	Amanda	MD/LG	1
	Hearst and Jay McInerney	Anne	MD/LG	0
Mr..	Heller and guest	Sanford	LG	0
	Rilton	Nikki	LG	
	Hilton	Paris	LG	
	Hirst & Maia Norman	Damien	LG/RP	
	Hoffman	Hannah	DS	
	Hoffman and Mimi O'Donnell	Philip Seymour	LG	
Mr. and Mrs.	Holm	Stellan	LG/RP	2
	Holzer	Jane	AA	2
Mr. & Mrs.	Hopper	Dennis	LG	
	Hotinsky	Isabelle	LN	
	Hurst	Fern	LN	
	Hutton	Lauren	CC	0
	Iles	Chrissie	LG	0
	Iseman and Svitlana Nesterova.	Fred	LG	2
	Jacobs	Marc	LG/RP	
	Jagger and L'Wren Scott	Mick	LG	
	Jimenez	Carmen	LN	1
	Joannou	Dakis	LN	
Mr.	Johns	Jasper	LG	0
	Johanssen and Ryan Reynolds	Scarlett	LG	
	Johnson	Nadine	LG	1
	Jolie and Brad Pitt	Angelina	LG	
	Kanders	Warren and Allison	LG/SO	
	Kang	Kristie	VG	
	Karpidas	Pauline	RP	1
	Kelsey	John	VG	2
	Kiedis	Anthony	RP/LG	
Mr.	Koons and Justine Wheeler	Jeff	LG/RP	2
	Krakoff	Reed	VG	0
Mr. and Mrs.	Kravis	Henry	LG	0
	Kydd	Johnnie Shand	RP	0
	Lasry	David and Evelyn	RP	2
	Lauren	Dylan	LG/MD	0
	Lazarov	Melissa	GG	4
	Lee	Heidi	VG	2
	Lehmann	Rachel and Jean-Pierre	LN	0
	LePaire	Cecile	GG	1
Mrs.	Lichtenstein	Dorothy	LG	
	Lieberman	Les	VG	
	Lindell	John	VG	
	Lis	Harry	VG	2

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Richard Prince
November 8, 2008
Gramercy Park Hotel

TITLE	LASTNAME	FIRSTNAME	STAFF	NUMBER
Mr.	Loeb	Daniel	LG	2 (drinks)
	Lougheed and Aaron Fleischmann	Lin	LN	2
	Lowman	Nate	LG/SR	1
	Lowry	Glenn	LG	0
	Mack	Phyllis	LN	
	Mack	Sondra	LN	
	Macklowe	Harry and Linda	LG	0
	MacPherson	Elle	RP	0
	Maguire and Jen Meyer	Tobey	LG/RP	
	Mahoney	Maureen	ML	1 (drinks)
	Manoukain	Bob	LG	0
Mr. and Mrs.	Marden	Brice	LG	0
Mr. and Mrs.	Marron	Donald	LG	0
	Marshall and Charlotte Beausavage	Patricia	MD/LG	2
	Martin	Steve and Ann	LG	
Mr.	Martinez	David	LG	1
	Mayer	John	RP	
Sir	McCartney	Paul	RP	
	McEwen	Adam	RP	1
	McLaren and Young Kim	Malcolm	LG	0
	McWhinnie and Maria Beaulieu	John	RP	2
Mr.	Meier	Richard	LG	1
	Mellon and Christian Slater	Tamara	LG	
	Mendez	Eva	LG	1
	Meyer	Ron	VG	0
Mr. and Mrs.	Michaels	Lorne	LG	
Mr.	Minskoff	Edward and Julie	LG	2
	Moore	Frank	VG	2
	Monk	Bob	GG	1
	Morton	Peter	LG	
	Moss	Kate	RP	
Mr.	Mugrabi	Alberto	LG/RP	
	Murakami	Takashi	LG	
	Neri	Louise	GG	1
Mr. & Mrs.	Newhouse, Jr.	S.I.	LG	
Mr. and Mrs.	Niarchos	Philip	LG/RP	
	Niarchos	Stavros	LG	
Mr. & Mrs.	O'Brien	Glenn	RP	2
	Obrist	Hans-Ulrich	LG	0
	Older	David	VG	
	Olsen	Ashley	RP	
	Olsen	Mary-Kate	LG/SR	1
	Orlofsky	Sam	GG	1
	Otto	Karla	LN	1
	Otto-Bernstein	Katharina	LN	

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Richard Prince
November 8, 2008
Gramercy Park Hotel

TITLE	LASTNAME	FIRSTNAME	STAFF	NUMBER
Mr. and Mrs.	Ovitz	Michael	RP	0
	Paltrow and Chris Martin	Gwyneth	LG	
Mr.	Parr and Allison Sarofim	Stuart	LG	2
Mr.	Perelman	Ronald O.	LG	1 (10 pm)
	Peters	Tara	VG	
	Petzel	Friedrich	RP	1
	Peyton	Elizabeth	LG/RP	
	Peyton-Jones	Julia	LG	0
	Phelan	John	VG	
Ms.	Phillips and Mr. Leon Falk	Lisa	LG/RP	2 (dessert)
	Phillips and Josephine Meckseper	Richard	LG	2
	Picasso	Claude	LG	
	Picasso and Gilies Bensimon	Diana	LG	2
Mr.	Pigozzi	Jean	LG/RP	2
	Pilati	Stefano	LN	0
M. et Mme.	Pinault	Francois	LG/RP	
	Pinchuk	Victor and Elena	LG	
	Pissarro	Joachim	VG	
	Pivovarov	Slava	VG	1
	Poehler and Will Arnett	Amy	RS	
	Polley	Doug	VG	
	Portman	Natalie	LG	
Ms.	Prather	Marla	LG	
	Prince	Richard	GG	2
	Rachofsky	Howard and Cindy	RV	0
	Rales	Mitch and Emily	LG	2
	Ratner	Brett	LG	
Mr.	Ray	Charles	LG	
	Reeves	Keanu	CC/SR	
	Reijtenbagh	Marlies and Jacco	ACrane	0
Mr. and Mrs.	Reuben	Simon	LG	1
	Reuben	Lisa	LG	1
	Reyle and Aurelia Sellin	Anselm	LG	
	Richardson	Andrew	LN	0
	Richardson, Jen Brill, and Arty Nelson	Terry	RP	3
Mr. and Mrs.	Riggio	Leonard	LG	0
Mr. and Mrs.	Ringier	Michael	RP	0
	Robins	Craig	VG	0
Mr.	Rose and Ms. Amanda Burden	Charlie	LG	
Mr.	Rosen and Samantha Boardman	Aby	LG/RP	
	Ross	Lyn	LN	
Lord	Rothschild and Miranda Brooks	Jacob	LG	2
Mr.	Rothschild	Nathaniel	LG	
	Rower	Sandy	LG	
	Rubell	Don and Mera	LN	2
	Rubenstein and guest	Inga	VG	2
	Rubin and Stephane Samuel	Robert	RP	2

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Richard Prince
November 8, 2008
Gramercy Park Hotel

TITLE	LASTNAME	FIRSTNAME	STAFF	NUMBER
	Ruscha	Ed and Danna	CC	0
	Ruth	Andrew	VG	0
Mr.	Sachs	Richard	LG	1
	Sagona	Marina	LG	1
	Sapirstein	Fred	VG	
	Sarkozy	Charlotte and Olivier	LG	2
	Saxe-Coburg	Rosario	RP	1
	Scarpetta	Lilly	LN	
	Scheinfeld	Jane	LN	
	Schiff	Lisa	VG	
	Schorr and Monica Condrea	Collier	RP	2
	Schwab	Katie	RV	0
	Schwartzman	Allan	RV	0
	Sednaoui and Julien Vedrine	Elisa	LG	2
	Seguin	Laurence et Patrick	LG/RP	2
	Semel	Terry and Jane	LG	0
	Semersky	Ernie & Dory	LG	
	Serra & Clara Weyergraf-Serra	Richard	LG	0
Mr.	Shafrazi	Tony	RP	1
	Shaye	Robert and Eva	LG	
	Shields	Brooke	LG	0
	Silver	Joel	VG	0
	Simon and Jake Paltrow	Taryn	LG	0
	Simunovic	Nick	GG	1
	Singh	Ranbir	VG	
	Smith and Jerry Saltz	Roberta	LG	0
Mr. and Mrs.	Soros	Georges	LG	0
	Spector and Michael Gabellini	Nancy	RP	2
	Sternthal	Rebecca	GG	1
Ms.	Stockman	Jennifer	RP	0
	Sugimoto	Hiroshi	EJW	0
	Sussman	Elizabeth	LG	2
	Sylvester	Julie	RP	1
	Tananbaum	Steven and Lisa	LG	
Mr. and Mrs.	Taschen	Benedikt	RP	
Mr.	Teller and Ms. Sadie Coles	Jurgen	RP	1
Ms.	Temkin	Ann	LG	0
	Tennant	Stella	RP	0
	Tinterow	Gary	LG	
	Traisman	Yuri	VG	
Ms.	Turlington and Ed Burns	Christy	LG	
	Twombly	Soledad Alessandro	PMF	
	Van De Mei Tcheng	Helen	RP	0
	Van de Weghe	Christophe and Anne-Gaelle	RP	2
	Varshinsky	Mikhail	VG	
	Vezzoli	Francesco	GG	1
Ms.	Vogel	Carol	LG	1
	Vousden	Robin	GG	1
	Wade	Carolyn	LN	1
	Wakefield	Neville	RP	0
	Watts and Live Schreiber	Naomi	ACrane	0

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Richard Prince
 November 8, 2008
 Gramercy Park Hotel

TITLE	LASTNAME	FIRSTNAME	STAFF	NUMBER
	Wechsler	Nick	LG	2
Mr	Weinberg	Adam	LG	
	Weingarten	Andrew	VG	
Mr. and Mrs.	Weinstein	Harvey	LG	
	Weiss	Jeffrey	LG	0
	West	Kanye	LG	0
	Westreich and Ethan Wagner	Thea	AA	2
	Williams	Pharrell	LG	
	Wingate	Ealan and Melinda	GG	2
Ms.	Wintour	Anna	LG	
	Wool and Charlene von Heyl	Christopher	LG/RP	
	Young and Alexia Niedzielski	Aaron	SR	
	Young	Michael	AA	1
	Young	Neda	AA	1
	Zahn	Olivier	RP	
Ms.	Zellweger	Renée	LG	
	Zita	Carmen	LG	2

Condensed Transcript

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

PATRICK CARIOU,
Plaintiff,

vs.

**RICHARD PRINCE, GAGOSIAN
GALLERY, INC., LAWRENCE
GAGOSIAN, and RIZZOLI
INTERNATIONAL PUBLICATIONS,
INC.,**

Defendants.

Index No.:
08 CIV 11327 (DAB)

DEPOSITION OF

ANTHONY PETRILLOSE

October 23, 2009
10:00 a.m.

New York, New York

Reported by: Bryan Nilsen, RPR



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<p style="text-align: center;">21</p> <p>1 Petrillose</p> <p>2 BY MR. BROOKS:</p> <p>3 Q. All right. Is there an oral</p> <p>4 agreement between Rizzoli and any of the other</p> <p>5 defendants pursuant to which the other</p> <p>6 defendants have agreed to indemnify Rizzoli?</p> <p>7 MR. SHERMAN: Object to the form.</p> <p>8 That calls for a legal conclusion.</p> <p>9 I'm instructing the witness not</p> <p>10 to answer.</p> <p>11 MS. BART: Object to form.</p> <p>12 MR. BROOKS: It doesn't call for a</p> <p>13 legal conclusion. This answer says --</p> <p>14 there is a crossclaim in this case which</p> <p>15 says that the other defendants are</p> <p>16 contractually obliged to indemnify</p> <p>17 Rizzoli. That's in your answer.</p> <p>18 MR. SHERMAN: Right.</p> <p>19 MR. BROOKS: And this is the witness</p> <p>20 you've brought here to testify on behalf</p> <p>21 of Rizzoli. I want to know if there is</p> <p>22 any such oral agreement.</p> <p>23 MR. SHERMAN: I think that an</p> <p>24 agreement asking the witness to</p> <p>25 interpret -- well.</p>	<p style="text-align: center;">23</p> <p>1 Petrillose</p> <p>2 delve into the attorney/client privilege,</p> <p>3 it doesn't seek the disclosure of any</p> <p>4 confidential information.</p> <p>5 The fact that somebody else may be</p> <p>6 paying your client's fees is not</p> <p>7 privileged.</p> <p>8 A. I don't know --</p> <p>9 MR. SHERMAN: Do you know the</p> <p>10 answer?</p> <p>11 A. I don't know the answer.</p> <p>12 Q. You said before you were personally</p> <p>13 negotiating with Alison McDonald about a</p> <p>14 potential contract?</p> <p>15 A. Correct.</p> <p>16 Q. When did those negotiations begin</p> <p>17 and when did they end, if you remember?</p> <p>18 A. Sometime around fall 2008 I believe</p> <p>19 it was.</p> <p>20 Q. That's when they began?</p> <p>21 A. I believe so, yes.</p> <p>22 Q. And how long did they continue?</p> <p>23 A. I want to say a month to two months</p> <p>24 perhaps. I mean off and on again, you know,</p> <p>25 it's a phone call or an e-mail.</p>
<p style="text-align: center;">22</p> <p>1 Petrillose</p> <p>2 BY MR. BROOKS:</p> <p>3 Q. Let me make it simple.</p> <p>4 Do you know who is paying Rizzoli's</p> <p>5 legal fees in this case?</p> <p>6 A. Do I know who's paying Rizzoli's?</p> <p>7 Q. Yes.</p> <p>8 MR. SHERMAN: I object to that.</p> <p>9 You don't have to answer that.</p> <p>10 MR. BROOKS: You're instructing him</p> <p>11 not to answer who's paying the legal fees?</p> <p>12 That's not privileged. There is a</p> <p>13 lot of case law that says that that is not</p> <p>14 privileged.</p> <p>15 We have a conspiracy claim in this</p> <p>16 case. There is a crossclaim by your</p> <p>17 client against the other defendants.</p> <p>18 I'm entitled to find out if there's</p> <p>19 an indemnification and, if so, who</p> <p>20 indemnified Rizzoli. It's not privileged,</p> <p>21 it's not a legal conclusion, and if he</p> <p>22 knows he should answer the question.</p> <p>23 There is abundant case law that says</p> <p>24 that that's not privileged, who is paying</p> <p>25 somebody's attorneys' fees. It doesn't</p>	<p style="text-align: center;">24</p> <p>1 Petrillose</p> <p>2 Q. And was there actually a draft or</p> <p>3 drafts that were exchanged?</p> <p>4 A. There was a draft.</p> <p>5 Q. There was some redline changes?</p> <p>6 A. I believe so, yeah.</p> <p>7 Q. You don't have a law degree, right?</p> <p>8 A. No.</p> <p>9 Q. Do you know why Rizzoli decided --</p> <p>10 you say they didn't distribute the book. Do you</p> <p>11 know why Rizzoli decided not to distribute the</p> <p>12 book?</p> <p>13 MR. SHERMAN: I'm going to object to</p> <p>14 the extent that calls for communications</p> <p>15 or content of communications between</p> <p>16 Rizzoli and its attorneys.</p> <p>17 MR. BROOKS: Fine.</p> <p>18 MR. SHERMAN: If you know the</p> <p>19 answer, other than what any lawyer may</p> <p>20 have told you, then you can answer.</p> <p>21 A. We just knew there was some sort of</p> <p>22 discrepancy going on between the plaintiff and</p> <p>23 Gagosian, so we --</p> <p>24 Q. So you didn't want to get involved?</p> <p>25 A. Yeah, we wanted to stay away.</p>

BATTIS J

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PATRICK CARIOU,

Plaintiff,

-against-

RICHARD PRINCE, GAGOSIAN GALLERY,
INC., LAWRENCE GAGOSIAN and
RIZZOLI INTERNATIONAL
PUBLICATIONS, INC.,

Defendants.

STIPULATION AND
ORDER OF DISMISSAL

08 CIV 11327 (DAB)

WHEREAS Plaintiff Patrick Cariou filed a Complaint on December 30, 2008 and an Amended Complaint on January 14, 2009 against defendants Richard Prince, Gagosian Gallery, Inc., Lawrence Gagosian and Rizzoli International Publications, Inc.; and

WHEREAS Defendant Rizzoli International Publications, Inc. filed its Answer to the Amended Complaint, asserting no counterclaims against plaintiff but asserting crossclaims against defendants Richard Prince, Gagosian Gallery, Inc. and Lawrence Gagosian, on March 17, 2009;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND ORDERED, whereas no party hereto is an infant or incompetent person for whom a committee has been appointed and no person not a party has an interest in the subject matter of the action, upon the stipulation and

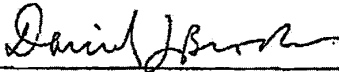
agreement between the undersigned attorneys of record for Plaintiff Patrick Cariou and the undersigned attorneys of record for Defendant Rizzoli International Publications, Inc., pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, that all claims by Plaintiff Patrick Cariou against Rizzoli International Publications, Inc. are dismissed with prejudice, and without costs to any party as against the other.

This Stipulation and Order of Dismissal may be executed in counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute one and the same instrument and agreement.

Dated: New York, New York
January 27, 2010

Dated: New York, New York
January 29, 2010

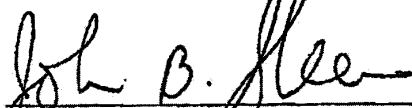
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*Attorneys for Defendant
Rizzoli International Publications, Inc.*

SO ORDERED:



Deborah A. Batts, U.S.D.J. 2/5/10

Dated: January 29, 2010