

AARON RICHARD GOLUB, ESQUIRE, PC
Attorneys for Plaintiffs
34 East 67th Street -3rd Floor
New York, New York 10065
ph: 212-838-4811
fx: 212-838-4869
ARG 6056

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X 11-CIV-1679 (DLC)

SAFFLANE HOLDINGS LTD., and
ROBERT WYLDE,

SECOND AMENDED COMPLAINT
(Jury Trial Demanded)

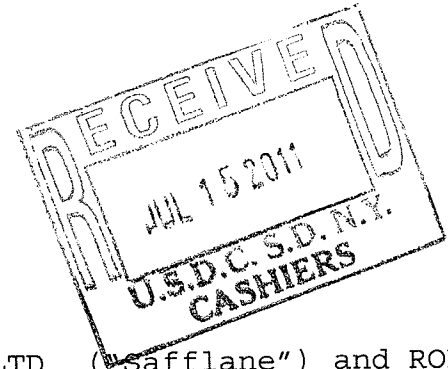
Plaintiffs,

-against-

GAGOSIAN GALLERY, INC., and
CHARLES COWLES,

Defendants.

-----X



Plaintiffs SAFFLANE HOLDINGS LTD. ("Safflane") and ROBERT WYLDE, by their attorney, AARON RICHARD GOLUB, ESQUIRE, PC, as and for their Second Amended Complaint, allege as follows:

THE PARTIES

1. Safflane is a corporation duly organized under the laws of the Republic of Cyprus, with its principal place of business in Nicosia, Cyprus.

2. Wylde, an individual, is a citizen and domiciliary of the United Kingdom of Great Britain and Northern Ireland.

3. Defendant Gagosian Gallery, Inc. ("Gagosian") is a domestic business corporation organized under the laws of the State of New York, and maintains its principal office and place of business at 980 Madison Avenue, New York, New York 10075.

4. Defendant Charles Cowles ("Cowles"), an individual, is a citizen and domiciliary of the State of New York.

JURISDICTION AND VENUE

5. This is a civil action over which this Court has original jurisdiction under the provisions of 28 U.S.C. § 1332(a)(2), as there is complete diversity of citizenship between all plaintiffs, on the one hand, and all defendants, on the other, and the amount in controversy exceeds seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs.

6. Venue is proper in this District pursuant to 28 U.S.C. § 1392(a)(1) because both Gagosian and Cowles reside in this District. Venue is also proper pursuant to 28 U.S.C. § 1392(a)(2) because a substantial portion of the events and omissions giving rise to the claims asserted herein occurred in this District.

GENERAL ALLEGATIONS

7. The allegations herein are made without prejudice to Plaintiffs' claims and defenses in *The Metropolitan Museum of Art, et al. v. Safflane Holdings, Ltd., et al.*, S.D.N.Y. Case

No. CV 11-3143 (DLC) (the "*Met v. Safflane* action"). Such claims and defenses may be, perforce, inconsistent with the allegations herein or may be asserted in the alternative.

A. The Gagosian, and the World Renowned Artists Mark Tansey and Richard Prince

8. Gagosian, established in 1979 by Lawrence G. Gagosian ("Mr. Gagosian"), is reputedly one of the most important contemporary art galleries in the world and maintains three art galleries in New York City.¹ Gagosian is wholly owned and is principally managed by Mr. Gagosian. Gagosian has represented the world-renowned artist Mark Tansey since 2004 and has represented the world-renowned artist Richard Prince since approximately 2005, first on a non-exclusive basis and, upon information and belief, commencing in 2008, on an exclusive basis.

9. Tansey was born in 1949 in San Jose, California. He is an American postmodern painter best known for monochromatic works and elaborate paintings incorporating hidden text, images and symbols. Tansey's works of art sell for millions of dollars privately and at auction. Gagosian is, or should be, familiar with every business and creative aspect of Tansey's works necessary to effectively represent him as his

¹ Gagosian maintains ten gallery locations throughout the world at these locations: New York City (three locations); Beverly Hills; London (two locations); Rome; Athens; Paris; Geneva; and Hong Kong.

gallerist; otherwise, Gagosian would not have been able to successfully represent Tansey since 2004.

10. Prince was born in 1949 in the Republic of Panama, is an American artist who bases his artistic work predominantly on the work of other artists and calls it "appropriation art." Prince's works of art sell for millions of dollars privately and at auction. Gagosian is, or should be, familiar with every business and creative aspect of Prince's works necessary to effectively represent him as his gallerist; otherwise, Gagosian would not have been able to successfully represent Prince since 2005.

**B. The Sale of Tansey's "The Innocent Eye Test" (1981)
To Plaintiff Safflane By Gagosian**

11. In or about late July 2009, Gagosian, by John Good ("JG"), one of Gagosian's most senior and experienced salespersons, offered for sale to Safflane, by its authorized representative Wylde,² a painting described in the sales invoice dated July 31, 2009 (the "Tansey Invoice"), as follows:

MARK TANSEY
The Innocent Eye Test, 1981
Oil on canvas
78 x 120 inches
198.1 x 304.8cm
(TANSE 1981.0001)

² All allegations to Safflane herein, with respect to the Tansey Painting, refer to Wylde acting on Safflane's behalf.

(the "Tansey Painting").

12. No sale of art was or is made by Gagosian without the express authority and supervision of Mr. Gagosian, including the sales of the Tansey Painting and the Prince Painting (as hereinafter referenced), in which Mr. Gagosian made all significant and final business decisions.

13. In 2004, a special relationship commenced between the parties based upon several factors, including without limitation the following: commencing in 2004, Plaintiffs engaged in numerous substantial transactions with Gagosian through JG (purchasing nine works of art, including, *inter alia*, one other Tansey painting, for a total of \$5,100,000.00); Plaintiffs actively collected the works of Tansey, who was exclusively represented by Gagosian and whose paintings were marketed and sold on the primary market through Gagosian; Gagosian, for its part, specifically sought works of art to improve and complement Plaintiffs' art collections; and Gagosian rendered written appraisals on Plaintiffs' artworks for Plaintiffs' insurance company.

14. Between approximately July 20, 2009 through the date of the Tansey Invoice, JG represented, assured and warranted to Safflane, orally and in writing, in sum and/or substance, expressly and/or impliedly, by telephone, in person and/or by e-mail, the following:

- i. That Gagosian could convey good and unencumbered title to the Tansey Painting to Safflane;
- ii. That Cowles, a well-known New York City art dealer, was rightfully in possession of the Tansey Painting;
- iii. That prior to Cowles having taken possession of the Tansey Painting, such work had been located and exhibited at the The Metropolitan Museum of Art (the "Met"), located at 1000 Fifth Avenue, New York City, but that the Tansey Painting had been properly returned by Met to Cowles;
- iv. That Cowles had advised JG that Cowles had had a disagreement, described to Safflane by JG as a spat, with the Met's new director (allegedly Gary Tinterow, who replaced the deceased renowned curator William Lieberman as the Chairman of the Met's Department of Nineteenth Century, Modern and Contemporary Art), and as a result the Tansey Painting was no longer going to be exhibited at the Met;
- v. That Cowles asked for the Tansey Painting to be returned to Cowles' possession. The Met complied and it was then evidently owned by Cowles. On or about July 28, 2009, three days prior to the purchase of the Tansey Painting, JG was questioned by Safflane in a series of e-mails,³ as follows:

"On 28 Jul 2009, at 16:36, John Good wrote:
Curator of 20th century art; now retired and replaced by Gary Tinterow.
----->[JG's response to Wylde]

-----Original Message-----
From: Wylde Robert
(mailto:robert~wylde.net)
Sent: Tuesday, July 28, 2009 4:35 PM
To: John Good

³ The text of the e-mail exchange is reproduced verbatim, with explanatory text concerning the identity of the sender and recipient of each message within the exchange.

Subject: Re: promised gift of charles
cowles in honour of wiliam s
Lieberman

in honour of Wiliam S. Lieberman.....who
is was he?

-----> [Wylde's e-mail to JG]

On 28 Jul2009, at 16:32, John Good wrote:

Saw the listing for the loft but was
there seomthing [sic] else about the
promised gift?

-----> [JG's response to Wylde]

-----Original Message-----

From: Wylde Robert
mailto:robert~wylde.net)
Sent: Monday, July 27, 2009 3:38 PM
to: John Good
Subject: promised gift of charles clowes
in honour of wiliam s lieberman

[http://www.google.com/url?sa=t&source=web&oi=video
result&ct=res&cd=2&ur
l=http%3A%2F%2Frealstate.nytimes.com%2Fsales%2F
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NY-10012&ei=ZQFuSqnzMo_QlAfFlbS1Ag&usg=AFQjCNFUw1
BXj167E1l06n7M2AI_WXo5mw&sig2=iib4z9Sc8S0Aauokqgh28g](http://www.google.com/url?sa=t&source=web&oi=video
result&ct=res&cd=2&ur
l=http%3A%2F%2Frealstate.nytimes.com%2Fsales%2F
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Mercer-Street-New-York-
NY-10012&ei=ZQFuSqnzMo_QlAfFlbS1Ag&usg=AFQjCNFUw1
BXj167E1l06n7M2AI_WXo5mw&sig2=iib4z9Sc8S0Aauokqgh28g)
-----> [Wylde's e-mail to JG]; and

vi. That JG, in replying to the foregoing e-mail
exchange, recklessly implied, if not expressed,
that there was no title issue with respect to the
promised gift, that the Tansey Painting could be
freely sold and title could legally pass to
Safflane. JG omitted to state that Gagosian had
not performed proper due diligence with respect
to the Tansey Painting and specifically with
respect to Safflane's e-mail questions concerning
"the promised gift."

15. JG repeatedly represented and stressed to

Safflane: (i) the excellent provenance of the Tansey Painting,

e.g., that it had previously been exhibited at the Met, one of the most prestigious museums in the world, which enhanced its value and/or desirability; (ii) the Tansey Painting's iconic status; and (iii) the scarcity of quality Tansey works of art in the secondary art market.

16. JG's representations to Safflane as aforesaid were material inducements for Safflane to consummate the purchase of the Tansey Painting.

17. JG's express and/or implied representations, assurances and warranties that the Tansey Painting had been properly returned to Cowles and could be sold to Safflane by Gagosian were borne out by JG arranging for Safflane to view the Tansey Painting at Cowles' gallery, situated at 84 Mercer Street, New York City. On or about July 27, 2009, Safflane and JG viewed the Tansey Painting, which was hanging on a wall in Cowles' gallery.

18. The facts, circumstances and reasons relating to Safflane's justifiable reliance on JG's representations and assurances made in New York City during the period commencing on approximately July 20, 2009, through the date of the Tansey Invoice, were as follows:

- i. During and/or shortly after the viewing at Cowles' gallery, JG again reassured and represented to Safflane, in words and/or in sum or substance, expressly and/or impliedly, that the Tansey Painting was no longer being exhibited at the Met, the Tansey Painting had been properly

returned to Cowles by the Met, Cowles then evidently owned it since it was hanging in his gallery, and the Tansey Painting could be sold to Plaintiff Safflane by Gagosian;

- ii. JG was a senior salesperson at, and was acting on behalf of, Gagosian, one of the most reputable and renowned contemporary art dealers in the world;
- iii. Cowles was a well known New York City art dealer who was allegedly retiring from the business and was selling the Tansey Painting as part of the winding down of his art dealership;
- iv. Safflane and/or Wylde had previously consummated nine art transactions with Gagosian through JG, with a total value in excess of \$5,000,000.00, and a special relationship developed, as set forth above, between Safflane and JG, including one of trust and confidence;
- v. Gagosian was uniquely situated in the art world to research and to evaluate the truth or falsity of Cowles' representations, having dealt with the Met in the past, knowing key Met personnel and curators as well as knowing exactly how to source and verify the relevant information from the Met relating to the Tansey Painting (see paragraph 21 below). When questioned via e-mail (which expressly referenced the gift to the Met) as to who William Lieberman was, JG recklessly failed to reveal to Safflane that JG had not investigated anything with respect to the stated gift, which included the Met's longstanding loan practices. A proper and reasonable due diligence investigation would have immediately revealed that Cowles may not have had the right to sell the Tansey Painting and that the Tansey Painting may have been merely loaned and/or entrusted by the Met to Cowles, a merchant who dealt with goods of that kind. Such reckless act/omission served as an additional fraudulent inducement; and
- vi. JG's foregoing representations concerning ownership and title of the Tansey Painting were

rational, credible and there was no reason for Safflane to doubt any of the foregoing.

19. Upon information and belief, prior to 2009, and well in advance of the sale of the Tansey Painting to Safflane, the Met had a purported 31% ownership interest in the Tansey Painting, with a further agreement and commitment that the balance of ownership of the Tansey Painting was to be gifted/donated at or before the death of Ms. Jan Cowles (who is Cowles' mother) and/or Cowles himself. Upon information and belief, according to documents on file at the Met, the Met allegedly obtained a partial ownership interest in the Tansey Painting as follows:

- i. A Promised Gift for Individual Donor (signed on the Met's gift form) executed by Cowles in 1988, giving a one percent (1%) interest in the Tansey Painting to the Met;
- ii. Offer of a Promised Gift (signed on the Met's gift form) executed by Ms. Jan Cowles in 1993, possibly promising a fifty percent (50%) interest in the Tansey Painting to the Met;
- iii. Offer of Partial Interest Gift (signed on the Met's gift form) executed by Ms. Jan Cowles in 2003, giving a twenty percent (20%) interest in the Tansey Painting to the Met; and
- iv. Offer of Partial Interest Gift (signed on the Met's gift form) executed by Ms. Jan Cowles in 2004, giving a ten percent (10%) interest in the Tansey Painting to the Met.

20. Had Gagorian performed proper and customary due diligence based on its own resources and public and private information uniquely accessible and available to Gagorian,

including but not limited to access to the Met's staff, professional relationships between Gagosian and the Met, information published by the Met electronically and through its annual reports (including, *inter alia*, its annual reports for fiscal years 2003-2004 and 2004-2005) - access to which Safflane did not readily have - Gagosian would have expeditiously learned that: (i) the Met allegedly maintained and continued to maintain an ownership interest in the Tansey Painting well before the time Gagosian sold the Tansey Painting to Safflane; (ii) Cowles may not have owned the Tansey Painting; and (iii) subject to paragraph 8's exclusionary language above, the Tansey Painting could not be sold to Gagosian and/or Safflane under such questionable circumstances and that good and clear title may not have been possible to pass to Gagosian and/or Safflane.

21. In the alternative, Gagosian knew or should have known at all relevant times that it did not have the right to make representations to Safflane regarding Gagosian's ownership or Cowles' alleged rights and control of the Tansey Painting, upon which Safflane justifiably relied to its detriment and was thereby damaged; or, in the alternative, Gagosian acted with reckless disregard therewith in making such representations.

22. On July 31, 2009, Gagosian conveyed and sold the Tansey Painting to Plaintiff Safflane for a purchase price of \$2,500,000.00 and issued to Safflane the Tansey Invoice.

23. The Tansey Invoice purported to pass title from Gagosian to Safflane conditioned upon payment in full, stating: "Title does not pass until payment in full has been received." Payment in full was made on or about August 5, 2009, and thereafter the Tansey Painting was delivered to Safflane.

24. Safflane and Gagosian are the only parties referenced in the Tansey Invoice. The Tansey Invoice does not, in any manner whatsoever, indicate that Gagosian was acting on behalf of anyone other than itself. Gagosian is specifically identified as the entity from which the Tansey Painting was purchased. Safflane paid only Gagosian, and no other party, for the Tansey Painting. The Tansey Invoice does not indicate a purported commission or the amount of the original purchase price paid by Gagosian to Cowles for the Tansey Painting. Safflane paid Gagosian directly for the full value of the Tansey Painting as stated in the Tansey Invoice. Gagosian performed pursuant to the Tansey Invoice by having the Tansey Painting delivered to Safflane.

25. On or about April 2, 2010, Gagosian's counsel formally advised Safflane via an e-mail incorporating a memorandum dated April 2, 2010, *inter alia*, that the Met was asserting an alleged 31% ownership interest in the Tansey Painting, Gagosian was not authorized in any way to sell the

Tansey Painting and the sale of the Tansey Painting was extremely embarrassing for Gagosian.

26. At all relevant times, Safflane believed that Gagosian was acting as a principal and/or the selling merchant in the sale of the Tansey Painting and that such sales transaction would be consummated directly between Safflane and Gagosian. At no time did Gagosian, through JG or otherwise, state orally or in writing that it was acting as an agent for Cowles or acting on Cowles' behalf. In point of fact, JG offered the painting to Safflane for a sum in excess of \$3,000,000.00 on or about July 27, 2009, and when Plaintiff Safflane subsequently responded with a counteroffer, JG replied that "I have to speak to Larry [Gagosian]." At no time did JG state that he had to speak to Cowles or anyone other than Mr. Gagosian about the price during the negotiations related to the purchase by Safflane of the Tansey Painting.

27. Upon information and belief, there was no consignment or agency agreement, written or otherwise, between Cowles and Gagosian, and at no time did Cowles ever state, in words or in substance, or believe or act as if, Gagosian was Cowles' agent. Cowles acted at all times with Gagosian on a merchant-to-merchant basis and/or art-dealer-to-art-dealer basis, in which both acted independently, guided by their own

self-interest, nor could Gagosian act as an agent, disclosed or otherwise, for a principal who ultimately does not have title. Plaintiffs also incorporate by reference herein the allegations of paragraphs 67 through 69 as if fully set forth herein.

**C. The Sale of Prince's "Millionaire Nurse" (2002)
To Plaintiff Wylde By Gagosian**

28. On October 15, 2009, Gagosian showed Wylde the following painting:

Millionaire Nurse
RICHARD PRINCE (b. 1949)
Signed, titled and dated 2002 on the overlap
Ink jet print and acrylic on canvas
58 x 36 in. (147.3 x 91.4 cm)

(the "Prince Painting").

29. On October 16, 2009, Gagosian gave Wylde a fact sheet on the Prince Painting.

30. On Friday, October 23, 2009, Gagosian, by its salesperson JG, sold to Plaintiff Wylde the Prince Painting for a purchase price of \$2,200,000.00.

31. Gagosian issued to Plaintiff Wylde an invoice dated Friday, October 23, 2009, on the same day as the sale described above, memorializing the sale of the Prince Painting to Wylde for the sum of \$2,200,000.00 (the "Prince Agreement"). The invoice was sent to Wylde, who was in Europe, after the banks were closed. Wylde was therefore unable to initiate a

wire transfer, which Wylde intended to do when the banks re-opened for business on the following Monday.

32. Two days later, on Sunday, October 25, 2009, JG e-mailed Wylde and advised him, *inter alia*, that the owner of the Prince Painting had withdrawn it from sale and the sale was accordingly cancelled.

33. Subsequently, JG advised Wylde that he had "lied to" Wylde in the October 25, 2009 e-mail and told Wylde that the truth was that the owner of the Prince Painting had not withdrawn it from sale but that, rather, Gagosian had received a better offer, i.e., an offer higher in amount than the \$2,200,000.00 offer Gagosian had already accepted from Wylde. Such acts defeated and destroyed Wylde's ability to perform pursuant to the Prince Agreement and accordingly Gagosian breached the Prince Agreement.

34. Upon information and belief, Gagosian has a business practice of entering into a binding agreement to sell a work of art ("Contract No. 1") and thereafter, Gagosian unlawfully seeks higher offer(s) for the same work of art, and upon receiving such higher offer(s), Gagosian unlawfully repudiates and/or rejects Contract No. 1 and accepts a higher offer, to the financial detriment of the initial purchaser.

TANSEY CLAIMS

AS AND FOR A FIRST CAUSE OF ACTION - AGAINST GAGOSIAN
(Breach of Express Warranty of Title)

35. Plaintiffs repeat and reallege the allegations of paragraphs 1-27 of this Second Amended Complaint as if fully set forth herein.

36. Gagosian's representations made in July 2009 concerning the Tansey Painting and title thereto were an affirmation of fact or promise made by the seller to the buyer relating to the Tansey Painting, which were a material part of the basis of Safflane's purchase of the Tansey Painting.

37. At the time of the sale of the Tansey Painting to Safflane, and prior thereto and as a part thereof, and to induce Safflane to purchase the Tansey Painting, Gagosian represented and warranted to Safflane, expressly and/or impliedly, *inter alia*, that the Tansey Painting was no longer being exhibited at the Met, had been returned to Cowles, and could be sold to Safflane with good, clear and unencumbered title.

38. Safflane purchased the Tansey Painting relying on the aforementioned representations and warranties.

39. Gagosian's representations and warranties in July 2009 constituted an express warranty and/or guarantee that Gagosian could convey to Safflane good, clear and unencumbered title to the Tansey Painting and/or that Safflane would receive good, clear and unencumbered title to the Tansey Painting.

40. As a result of the foregoing, Safflane has been damaged in a sum reflecting the value of the Tansey Painting at the time of trial (estimated by Plaintiffs to be in excess of \$6 million), with legal interest thereon and, in addition thereto, all consequential and incidental damages proximately caused thereby.

AS FOR A SECOND CAUSE OF ACTION - AGAINST COWLES
(Breach of Express Warranty of Title)

41. Plaintiffs repeat and reallege the allegations of paragraphs 35-40 of this Second Amended Complaint as though fully set forth herein.

42. To the extent that Gagosian establishes adequate facts in connection with any defense to the First Cause of Action herein under which Cowles would be held vicariously liable, in whole or in part, for the acts, omissions, and/or statements of Gagosian (e.g., in the event it is legally determined that Gagosian was an agent for Cowles as a disclosed principal), then any judgment entered by the Court for Safflane in connection with the First Cause of Action should be entered against both Gagosian and Cowles, jointly and/or severally, or exclusively against Cowles, depending upon the specific facts established by Gagosian in connection with its defense.

AS AND FOR A THIRD CAUSE OF ACTION - AGAINST GAGOSIAN
(Breach of Implied Warranty of Title)

43. Plaintiffs repeat and reallege the allegations of paragraphs 1-27 of this Second Amended Complaint as if fully set forth herein.

44. The contract to sell the Tansey Painting contained an implied warranty that the title conveyed was to be good, and its transfer rightful, and that the Tansey Painting was to be delivered to Safflane free from any lien, encumbrance or claims by third parties.

45. Gagosian's representations in July 2009 constituted an implied warranty and/or guarantee that Gagosian could convey to Safflane good, clear and unencumbered title to the Tansey Painting and/or that Safflane would receive good, clear and unencumbered title to the Tansey Painting.

46. Safflane purchased the Tansey Painting relying on the aforementioned warranties and/or guaranties.

47. As a result of the foregoing, Safflane has been damaged in a sum reflecting the value of the Tansey Painting at the time of trial (estimated by Plaintiffs to be in excess of \$6 million), with legal interest thereon and, in addition thereto, all consequential and incidental damages proximately caused thereby.

AS AND FOR A FOURTH CAUSE OF ACTION - AGAINST COWLES
(Breach of Implied Warranty of Title)

48. Plaintiffs repeat and reallege the allegations of paragraphs 43-47 of this Second Amended Complaint as though fully set forth herein.

49. To the extent that Gagosian establishes adequate facts in connection with any defense to the Third Cause of Action herein under which Cowles would be held vicariously liable, in whole or in part, for the acts, omissions, and/or statements of Gagosian (e.g., in the event it is legally determined that Gagosian was an agent for Cowles as a disclosed principal), then any judgment entered by the Court for Safflane in connection with the Third Cause of Action should be entered against both Gagosian and Cowles, jointly and/or severally, or exclusively against Cowles, depending upon the specific facts established by Gagosian in connection with its defense.

AS AND FOR A FIFTH CAUSE OF ACTION - AGAINST GAGOSIAN
(Breach of Implied Warranty of Merchantability)

50. Plaintiffs repeat and reallege the allegations of paragraphs 1-27 of this Second Amended Complaint as though fully set forth herein.

51. Gagosian's agreement to sell the Tansey Painting contained an implied warranty of merchantability that, *inter alia*, title to the Tansey Painting was to pass without objection in the trade pursuant to the description in the Tansey Invoice,

was fit for the ordinary purposes for which goods such as the Tansey Painting are used and would conform to the promises or affirmations of fact made by Gagosian.

52. Safflane purchased the Tansey Painting relying on such warranties.

53. As a result of the foregoing, Safflane has been damaged in a sum reflecting the value of the Tansey Painting at the time of trial (estimated by Plaintiffs to be in excess of \$6 million), with legal interest thereon and, in addition thereto, all consequential and incidental damages proximately caused thereby.

AS AND FOR A SIXTH CAUSE OF ACTION - AGAINST COWLES
(Breach of Implied Warranty of Merchantability)

54. Plaintiffs repeat and reallege the allegations of paragraphs 50-53 of this Second Amended Complaint as though fully set forth herein.

55. To the extent that Gagosian establishes adequate facts in connection with any defense to the Fifth Cause of Action herein under which Cowles would be held vicariously liable, in whole or in part, for the acts, omissions, and/or statements of Gagosian (e.g., in the event it is legally determined that Gagosian was an agent for Cowles as a disclosed principal), then any judgment entered by the Court for Safflane in connection with the Fifth Cause of Action should be entered against both Gagosian and Cowles, jointly and/or severally, or

exclusively against Cowles, depending upon the specific facts established by Gagosian in connection with its defense.

AS AND FOR A SEVENTH CAUSE OF ACTION - AGAINST GAGOSIAN
(Breach of Contract)

56. Plaintiffs repeat and reallege the allegations of paragraphs 1-27 of this Second Amended Complaint as though fully set forth herein.

57. On July 31, 2009, Safflane and Gagosian entered into a contract, for good and valuable consideration, in which Gagosian agreed to sell the Tansey Painting to Safflane for a purchase price of \$2,500,000.00, and Gagosian thereafter issued to Safflane an invoice dated July 31, 2009, for the sale of the Tansey Painting.

58. On or about August 5, 2009, Safflane paid Gagosian the sum of \$2,500,000.00, thereby performing its part of the contract.

59. Gagosian breached the contract by failing and neglecting to perform its obligations by not conveying to Safflane good, clear and unencumbered title to the Tansey Painting.

60. As a result of the foregoing, Safflane has been damaged in a sum reflecting the value of the Tansey Painting at the time of trial (estimated by Plaintiffs to be in excess of \$6 million), with legal interest thereon and, in addition thereto,

all consequential and incidental damages proximately caused thereby.

AS AND FOR A EIGHTH CAUSE OF ACTION - AGAINST COWLES
(Breach of Contract)

61. Plaintiffs repeat and reallege the allegations of paragraphs 56-60 of this Second Amended Complaint as though fully set forth herein.

62. To the extent that Gagosian establishes adequate facts in connection with any defense to the Seventh Cause of Action herein under which Cowles would be held vicariously liable, in whole or in part, for the acts, omissions, and/or statements of Gagosian (e.g., in the event it is legally determined that Gagosian was an agent for Cowles as a disclosed principal), then any judgment entered by the Court for Safflane in connection with the Seventh Cause of Action should be entered against both Gagosian and Cowles, jointly and/or severally, or exclusively against Cowles, depending upon the specific facts established by Gagosian in connection with its defense.

AS AND FOR A NINTH CAUSE OF ACTION - AGAINST GAGOSIAN
(Fraud)

63. Plaintiffs repeat and reallege the allegations of paragraphs 1-27 of this Second Amended Complaint as though fully set forth herein.

64. Gagosian failed to inform Safflane that the Met allegedly owned a 31% interest in the Tansey Painting and that

Gagosian was not legally authorized to transfer to Safflane good, clear and unencumbered title to the Tansey Painting.

65. Gagosian knew or should have known that its representations to Safflane concerning title to the Tansey Painting were false, that such misrepresentations and omissions (*see, inter alia*, paragraph 15, above) were made with knowledge of their falsity and with the intent and for the purpose of deceiving and defrauding and inducing Safflane to purchase the Tansey Painting or were made with reckless disregard to whether or not such representations were true or false. Gagosian communicated such fraudulent misrepresentations concerning the Tansey Painting and intended that such material misrepresentations and omissions to Safflane be taken as true and caused and induced Safflane to actually and justifiably rely on the misrepresentations and omissions of Gagosian set forth above by purchasing the Tansey Painting.

66. The specifics of the fraud are alleged in the paragraphs 11 through 27 of this Second Amended Complaint, and further in the allegations that follow.

67. The Tansey Painting was acquired by Gagosian as part of one combined transaction through which Gagosian also acquired from Cowles, purportedly acting on behalf of Jan Cowles (but in fact Cowles had no such authority), the following

painting by Roy Lichtenstein, after a viewing of the painting in Jan Cowles' private residence in New York City:

Girl in Mirror, 1964
Enamel on steel
42 x 42 in. (106.7 x 106.7 cm)
ROY LICHTENSTEIN (1923-1997) (the "Lichtenstein Painting").

68. At the time of the combined transaction, and for some time prior thereto, Cowles was in an impecunious if not desperate financial condition, which was a matter of common knowledge in the art world and which Gagosian and Mr. Gagosian tapped into and exploited to their advantage. Mr. Gagosian used as a ruse a false statement of fact to ingratiate himself with Cowles, to gain entre and access to the Lichtenstein Painting, to induce Cowles to show and sell the Lichtenstein Painting to Gagosian and facilitate a sales transaction of the Lichtenstein Painting, by stating to Cowles: that the late Roy Lichtenstein's wife Dorothy Lichtenstein informed Mr. Gagosian prior to the time he contacted Cowles, that the Lichtenstein Painting was owned by Jan Cowles and possibly for sale. Gagosian and Mr. Gagosian knew or had reason to know that Cowles had no authority to sell the Lichtenstein Painting, and that his desperation for cash was of sufficient severity that he would permit Gagosian to have the Lichtenstein Painting for an amount substantially less than its fair market value. In order to induce Cowles into this transaction, and to obscure the severe undervaluation of the

Lichtenstein Painting, Gagosian also purchased from Cowles the Tansey Painting.

69. Gagosian had the motive to commit fraud, as it could acquire the Tansey Painting and/or the Lichtenstein Painting on unconscionably lopsided terms, as aforesaid, and reap a high profit margin from the sale of those paintings to third-parties, such as Safflane, which were unaware of the complete set of circumstances surrounding Gagosian's acquisition of these art works. In fact, had Safflane been aware of the unlawful, illicit, nefarious and internecine dealings of Gagosian and Cowles, it would not have continued doing any business with Gagosian and certainly would not have purchased the Tansey Painting, to avoid any complicity in the fraudulent acts of Gagosian and/or Cowles, and to avoid the risk of future litigation and/or legal consequences arising out of Gagosian's seamy business practices. Instead, Gagosian's misrepresentations and/or omissions permitted it to maintain its fruitful client relationship with Safflane and Wylde.

70. As a result of the foregoing, Safflane has been damaged in a sum reflecting the value of the Tansey Painting at the time of trial (estimated by Plaintiffs to be in excess of \$6 million), with legal interest thereon and, in addition thereto, all consequential and incidental damages proximately caused thereby.

AS AND FOR A TENTH CAUSE OF ACTION - AGAINST COWLES
(Fraud)

71. Plaintiffs repeat and reallege the allegations of paragraphs 63-68 of this Second Amended Complaint as though fully set forth herein.

72. To the extent that Gagosian establishes adequate facts in connection with any defense to the Ninth Cause of Action herein under which Cowles would be held vicariously liable, in whole or in part, for the acts, omissions, and/or statements of Gagosian (e.g., in the event it is legally determined that Gagosian was an agent for Cowles as a disclosed principal), then any judgment entered by the Court for Safflane in connection with the Ninth Cause of Action should be entered against both Gagosian and Cowles, jointly and/or severally, or exclusively against Cowles, depending upon the specific facts established by Gagosian in connection with its defense.

AS AND FOR A ELEVENTH CAUSE OF ACTION - AGAINST GAGOSIAN
(Negligent Misrepresentation)

73. Plaintiffs repeat and reallege the allegations of paragraphs 1-27 of this Second Amended Complaint as though fully set forth herein.

74. Gagosian is and was in a special position of confidence and trust with Plaintiffs, as more fully set forth above in paragraphs 13 and 18. Gagosian has and had a unique and specialized expertise in the art market, including

relationships with museums such as the Met and with world-renowned artists such as Tansey, as more fully set forth hereinabove.

75. Gagosian had a duty to impart accurate and correct information to the Plaintiffs.

76. Gagosian made reckless, negligent and false representations to Plaintiffs (see paragraph 14, above), which Gagosian knew or should have known were untrue and inaccurate. Such representations were known by the Gagosian to be desired by Plaintiff Safflane for the purpose of purchasing the Tansey Painting for the sum of \$2,500,000.00.

77. When Gagosian was made aware of the possible title issues related to the Tansey Painting, Gagosian failed to discharge its duty of reasonable care (see paragraph 14, above) by not making proper inquiry to confirm CC's alleged rights or the truth or falsity of CC's statements related to the title and ownership of the Tansey Painting as set forth above (including paragraph 14), and Plaintiff Safflane reasonably relied upon Gagosian's misleading and incomplete representations to its detriment. Gagosian was also negligent by failing to inform Plaintiff Safflane that it took no steps to contact the Met or any other party to confirm CC's alleged rights to the Tansey Painting.

78. Plaintiff Safflane would not have offered to purchase the Tansey painting, much less consummate its purchase, had it known title and ownership to the work were an issue.

79. Gagosian violated its duty and its actions and/or omissions proximately caused Plaintiff Safflane damage.

80. As a result of the foregoing, Safflane has been damaged in a sum reflecting the value of the Tansey Painting at the time of trial (estimated by Plaintiffs to be in excess of \$6 million), with legal interest thereon and, in addition thereto, all consequential and incidental damages proximately caused thereby.

AS AND FOR A TWELFTH CAUSE OF ACTION - AGAINST COWLES
(Negligent Misrepresentation)

81. Plaintiffs repeat and reallege the allegations of paragraphs 71-78 of this Second Amended Complaint as though fully set forth herein.

82. To the extent that Gagosian establishes adequate facts in connection with any defense to the Eleventh Cause of Action herein under which Cowles would be held vicariously liable, in whole or in part, for the acts, omissions, and/or statements of Gagosian (e.g., in the event it is legally determined that Gagosian was an agent for Cowles as a disclosed principal), then any judgment entered by the Court for Safflane in connection with the Eleventh Cause of Action should be entered against both Gagosian and Cowles, jointly and/or

severally, or exclusively against Cowles, depending upon the specific facts established by Gagosian in connection with its defense.

AS AND FOR A THIRTEENTH CAUSE OF ACTION - AGAINST GAGOSIAN
(Violation of New York Arts and Cultural Affairs Law § 13.03)

83. Plaintiffs repeat and reallege the allegations of paragraphs 1-27 of this Second Amended Complaint as though fully set forth herein.

84. Gagosian violated the New York Arts and Cultural Affairs Law § 13.03 as Gagosian, intending to defraud, deceive and/or injure Safflane, made and issued an invoice for the Tansey Painting attesting that title and accompanying authenticity of the Tansey Painting would pass to Safflane when payment in full had been received, when, in fact, good, clear and unencumbered title did not pass to Safflane after payment in full had been received by Gagosian.

85. The Tansey Invoice is false and Gagosian violated the law as Gagosian could not pass title to the Tansey Painting to Safflane because, upon information and belief (subject to the paragraph 8's exclusionary language above), Gagosian never had title to the Tansey Painting. Good, clear and unencumbered title to the Tansey Painting could not pass to Plaintiff Safflane when it made payment to Gagosian.

86. As a result of the foregoing, Safflane has been damaged in a sum reflecting the value of the Tansey Painting at

the time of trial (estimated by Plaintiffs to be in excess of \$6 million), with legal interest thereon and, in addition thereto, all consequential and incidental damages proximately caused thereby.

AS AND FOR A FOURTEENTH CAUSE OF ACTION - AGAINST COWLES
(Violation of New York Arts and Cultural Affairs Law § 13.03)

87. Plaintiffs repeat and reallege the allegations of paragraphs 81-84 of this Second Amended Complaint as though fully set forth herein.

88. To the extent that Gagosian establishes adequate facts in connection with any defense to the Thirteenth Cause of Action herein under which Cowles would be held vicariously liable, in whole or in part, for the acts, omissions, and/or statements of Gagosian (e.g., in the event it is legally determined that Gagosian was an agent for Cowles as a disclosed principal), then any judgment entered by the Court for Safflane in connection with the Thirteenth Cause of Action should be entered against both Gagosian and Cowles, jointly and/or severally, or exclusively against Cowles, depending upon the specific facts established by Gagosian in connection with its defense.

AS AND FOR A FIFTEENTH CAUSE OF ACTION-AGAINST GAGOSIAN
(Unjust Enrichment)

89. Plaintiffs repeat and reallege the allegations of paragraphs 1-27 of this Second Amended Complaint as though fully set forth herein.

90. As a result of Gagosian's sale of the Tansey Painting to Safflane, Gagosian was unjustly enriched.

91. Gagosian's unjust enrichment was at Plaintiff Safflane's expense.

92. The circumstances are such that equity and good conscience require Gagosian to make full restitution to Plaintiff Safflane.

93. As a result of the foregoing, Plaintiff Safflane has been damaged in a sum reflecting the value of the Tansey Painting at the time of trial (estimated by Plaintiffs to be in excess of \$6 million), with legal interest thereon and, in addition thereto, all consequential and incidental damages proximately caused thereby.

AS AND FOR A SIXTEENTH CAUSE OF ACTION - AGAINST COWLES
(Unjust Enrichment)

94. Plaintiffs repeat and reallege the allegations of paragraphs 87-91 of this Second Amended Complaint as though fully set forth herein.

95. To the extent that Gagosian establishes adequate facts in connection with any defense to the Fifteenth Cause of

Action herein under which it were established that Cowles was unjustly enriched as a result of Gagosian's sale of the Tansey Painting to Safflane and/or under which Cowles would be held vicariously liable, in whole or in part, for the acts, omissions, and/or statements of Gagosian (e.g., in the event it is legally determined that Gagosian was an agent for Cowles as a disclosed principal), then any judgment entered by the Court for Safflane in connection with the Fifteenth Cause of Action should be entered against both Gagosian and Cowles, jointly and/or severally, or exclusively against Cowles, depending upon the specific facts established by Gagosian in connection with its defense.

PRINCE CLAIMS - BY WYLDE ONLY AGAINST GAGOSIAN ONLY

AS AND FOR A SEVENTEENTH CAUSE OF ACTION
(Repudiation and/or Breach of Contract)

96. Plaintiffs repeat and reallege the allegations of paragraphs 1-10 and 28-34 of this Second Amended Complaint as though fully set forth herein.

97. On October 23, 2009, Wylde and Gagosian entered into an agreement for Wylde to purchase the Prince Painting for the sum of \$2,200,000.00, as set forth above.

98. At all times herein mentioned, Wylde was ready, willing and able to perform the terms and conditions of the Prince Agreement on his part to be performed, including, payment of the purchase price therefore in full.

99. On October 25, 2009, without legal reason or cause, Gagosian unlawfully repudiated and breached the Prince Agreement by unlawfully cancelling, failing and refusing to deliver the Prince Painting to Wylde because Gagosian had sought and received a higher offer for the Prince Painting. As confirmed by Gagosian's counsel's in court statement on May 13, 2011 before the Hon. Denise Cote, on Monday, October 26, 2009, Gagosian sold the Prince Painting to another buyer who made a higher offer. Gagosian accepted such higher offer notwithstanding that Gagosian and Wylde had entered into a binding agreement for the sale of the Prince Painting.

100. As a result of the foregoing, Wylde has been damaged in a sum exceeding One Million Dollars (\$1,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto.

AS AND FOR AN EIGHTEENTH CAUSE OF ACTION
(Deceptive and Misleading Business Practices-GBL § 349 et seq.)

101. Plaintiffs repeat and reallege the allegations of paragraphs 1-10 and 28-34 of this Second Amended Complaint as though fully set forth herein.

102. Gagosian has engaged in deceptive and misleading business practices in violation of New York General Business Law Sections 349 et seq. as set forth above in paragraph 35.

103. Gagosian is an art gallery open to the public at large and sells works of art to the public at large, and has engaged in deceptive and dishonest misconduct that has a broad impact on the public at large, including collectors of art in New York City and throughout the world.

104. Gagosian has engaged in consumer related activity affecting consumers at large. Gagosian, by maintaining a business practice of entering into binding agreements to sell works of art and thereafter unlawfully seeking and/or accepting higher offer(s) for the same works of art and unlawfully repudiating and/or rejecting the prior binding agreements to the detriment of the original purchasers, utilizes tactics which were and are deceptive in material respects and Plaintiffs have been injured thereby.

105. As a result of the foregoing, a cause of action for deceptive and misleading business practices exists against Gagosian in favor of Wylde, and Wylde has been damaged in a sum exceeding One Million Dollars (\$1,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto.

AS AND FOR A NINETEENTH CAUSE OF ACTION
(Unjust Enrichment)

106. Plaintiffs repeat and reallege the allegations of paragraphs 1-10 and 28-34 of this Second Amended Complaint as though fully set forth herein.

107. As a result of Gagosian's cancellation of the sale of the Prince Painting to Wylde in order to accept a better offer, Gagosian was unjustly enriched.

108. Gagosian's unjust enrichment was at Wylde's expense.

109. The circumstances are such that equity and good conscience require Gagosian to make full restitution to Wylde.

110. As a result of the foregoing, Plaintiff Wylde has been damaged in a sum exceeding One Hundred Thousand Dollars (\$100,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto.

AS AND FOR A TWENTIETH CAUSE OF ACTION
(Breach of the Implied Covenant
Of Good Faith and Fair Dealing)

111. Plaintiffs repeat and reallege the allegations of paragraphs 1-10 and 28-34 of this Second Amended Complaint as though fully set forth herein.

112. By soliciting and exploiting a higher offer which Gagosian accepted, Gagosian defeated and destroyed Wylde's right

to receive the fruits of its bargain, including but not limited to, the value of the Prince Agreement, and interfered with Wylde's reasonable expectations.

113. As a result of the foregoing, Wylde has been damaged in a sum exceeding One Million Dollars (\$1,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto.

AS AND FOR A TWENTY-FIRST CAUSE OF ACTION
(Specific Performance)

114. Plaintiffs repeat and reallege the allegations of paragraphs 1-10 and 28-34 of this Second Amended Complaint as though fully set forth herein.

115. Gagosian has refused to acknowledge Wylde's legal interest in the Prince Painting.

116. Plaintiffs have no adequate remedy at law.

117. As a result of the foregoing, Plaintiff Wylde is entitled to a judgment of specific performance by Gagosian on the Prince Agreement for the Prince Painting.

JURY DEMAND

Plaintiffs demand a jury for all claims stated herein.

WHEREFORE, Plaintiffs demand judgment:

a. On the First Cause of Action, against Gagosian in favor of Plaintiff Safflane, damages reflecting the value of the Tansey Painting at the time of trial, in a sum exceeding Six Million Dollars (\$6,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto;

b. On the Second Cause of Action, against Cowles in favor of Plaintiff Safflane, damages reflecting the value of the Tansey Painting at the time of trial, in a sum exceeding Six Million Dollars (\$6,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto;

c. On the Third Cause of Action, against Gagosian in favor of Plaintiff Safflane, damages reflecting the value of the Tansey Painting at the time of trial, in a sum exceeding Six Million Dollars (\$6,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in

addition thereto, including all consequential and incidental damages proximately related thereto;

d. On the Fourth Cause of Action, against Cowles in favor of Plaintiff Safflane, damages reflecting the value of the Tansey Painting at the time of trial, in a sum exceeding Six Million Dollars (\$6,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto;

e. On the Fifth Cause of Action, against Gagosian in favor of Plaintiff Safflane, damages reflecting the value of the Tansey Painting at the time of trial, in a sum exceeding Six Million Dollars (\$6,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto;

f. On the Sixth Cause of Action, against Cowles in favor of Plaintiff Safflane, damages reflecting the value of the Tansey Painting at the time of trial, in a sum exceeding Six Million Dollars (\$6,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto;

g. On the Seventh Cause of Action, against Gagosian in favor of Plaintiff Safflane, damages reflecting the value of the Tansey Painting at the time of trial, in a sum exceeding Six Million Dollars (\$6,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto;

h. On the Eighth Cause of Action, against Cowles in favor of Plaintiff Safflane, damages reflecting the value of the Tansey Painting at the time of trial, in a sum exceeding Six Million Dollars (\$6,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto;

i. On the Ninth Cause of Action, against Gagosian in favor of Plaintiff Safflane, damages reflecting the value of the Tansey Painting at the time of trial, in a sum exceeding Six Million Dollars (\$6,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto;

j. On the Tenth Cause of Action, against Cowles in favor of Plaintiff Safflane, damages reflecting the value of the Tansey Painting at the time of trial, in a sum exceeding Six

Million Dollars (\$6,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto;

k. On the Eleventh Cause of Action, against Gagosian in favor of Plaintiff Safflane, damages reflecting the value of the Tansey Painting at the time of trial, in a sum exceeding Six Million Dollars (\$6,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto;

l. On the Twelfth Cause of Action, against Cowles in favor of Plaintiff Safflane, damages reflecting the value of the Tansey Painting at the time of trial, in a sum exceeding Six Million Dollars (\$6,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto;

m. On the Thirteenth Cause of Action, against Gagosian in favor of Plaintiff Safflane, damages reflecting the value of the Tansey Painting at the time of trial, in a sum exceeding Six Million Dollars (\$6,000,000.00), the precise amount to be proven at trial, with appropriate legal interest

thereon and in addition thereto, including all consequential and incidental damages proximately related thereto;

n. On the Fourteenth Cause of Action, against Cowles in favor of Plaintiff Safflane, damages reflecting the value of the Tansey Painting at the time of trial, in a sum exceeding Six Million Dollars (\$6,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto;

o. On the Fifteenth Cause of Action, against Gagosian in favor of Plaintiff Safflane, damages reflecting the value of the Tansey Painting at the time of trial, in a sum exceeding Six Million Dollars (\$6,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto;

p. On the Sixteenth Cause of Action, against Cowles in favor of Plaintiff Safflane, damages reflecting the value of the Tansey Painting at the time of trial, in a sum exceeding Six Million Dollars (\$6,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto;

q. On the Seventeenth Cause of Action, against Gagosian in favor of Plaintiff Wylde, damages in a sum exceeding One Hundred Thousand Dollars (\$100,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto;

r. On the Eighteenth Cause of Action, against Gagosian in favor of Plaintiff Wylde, damages in a sum exceeding One Million Dollars (\$1,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto;

s. On the Nineteenth Cause of Action, against Gagosian in favor of Plaintiff Wylde, damages in a sum exceeding One Million Dollars (\$1,000,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto;

t. On the Twentieth Cause of Action, against Gagosian in favor of Plaintiff Wylde, damages in a sum exceeding One Hundred Thousand Dollars (\$100,000.00), the precise amount to be proven at trial, with appropriate legal interest thereon and in addition thereto, including all consequential and incidental damages proximately related thereto;

- u. Judgment on the Twenty-First Cause of Action:
- i. ordering and decreeing that Gagosian specifically perform the contract concerning the Prince Painting; and
 - ii. adjudging that Plaintiff Wylde is the true owner of the Prince Painting; and
- v. Granting to the Plaintiffs such other and further relief as this Court shall deem just and proper, together with the costs and disbursements of this action, and reasonable attorneys' fees.

Dated: New York, New York
July 15, 2011

Respectfully submitted,

AARON RICHARD GOLUB, ESQ., P.C.
Attorneys for Plaintiffs



BY: s/Nehemiah S. Glanc
34 East 67th Street - 3rd Floor
New York, New York 10065
ph: 212-838-4811
fx: 212-838-4869
NSG 7264