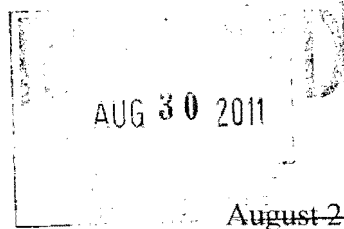


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BY HAND

Hon. Denise Cote
United States District Court
Southern District of New York
500 Pearl Street, Room 1040
New York, NY 10007

MEMO ENDORSED

8/30/2011

Re: Safflane et. al. v. Gagosian Gallery, 11-cv-01679-DLC ("Safflane action")
-and-
The Metropolitan Museum of Art, et. al. v. Safflane Holdings, et. al., 11-cv-3143-DLC ("Met action")

Dear Judge Cote:

This letter replies to the letter of SNR Denton dated August 29, 2011 concerning the depositions of Lester Marks and John Good.

SNR Denton's letter is replete with outrageous misrepresentations including the offering of deposition dates for August 20 and 21 which are a Saturday and Sunday as well as knowingly offering dates during Mr. Golub's vacation and on Jewish holidays. Although Mr. Golub may not celebrate all the Jewish holidays, I do. As Mr. Baum is aware, this office is a small office with only three attorneys—Mr. Golub, myself and a junior associate. I am the associate principally appointed to this case, have assisted Mr. Golub at all levels in this case and have attended all the depositions to date. I am also insulted by Mr. Baum's characterization of Shemini Atzeret as a minor Jewish holiday, which it is not.

As explained in Mr. Golub's letter dated August 26, 2011, September 8 was tentative for plaintiffs only, because plaintiffs were trying to schedule the deposition of Jan Cowles prior to Mr. Marks' deposition. September 8 was considered a firm deposition date by all other counsel. For example, in Exhibit 2 page 2, under the section "Lester Marks," Gagosian's attorney Hollis Bart, Esq. states "This deposition has already been confirmed for September 8th by David Baum." In other words September 8 was a confirmed date provided the Jan Cowles deposition issue was resolved, which this Court resolved by its endorsed Order dated August 25, 2011. The July 27 date, in addition to being a date in which Mr. Golub would be away on vacation, was never confirmed and always considered a control date as July 27 was neither discussed nor agreed upon by other counsel.

Jan Cowles and her attorney in fact Lester Marks are one of the two plaintiffs in the Met action. Mr. Wylde and Safflane's deposition is scheduled for September 15, 2011. A proposed

Hon. Denise Cote

August 29, 2011

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adjournment of Mr. Marks' deposition means that the usual order of depositions (i.e. defendants deposing plaintiffs) will be inverted and the plaintiffs in the Met action will have deposed the defendants before the defendants depose the plaintiffs.

John Good's deposition for September 27 was also confirmed by all counsel and no one considered Mr. Good's deposition as tentative and nor does Mr. Baum assert that Mr. Good's deposition date was considered tentative by any counsel.

Accordingly, plaintiffs respectfully request this Court endorse Mr. Golub's letter application ordering Mr. Marks to appear at his previously scheduled deposition date of September 8, 2011 or on a mutually agreeable date no later than September 30, 2011 and disallowing Mr. Baum to change Mr. Good's deposition date of September 27, 2011.

Respectfully submitted,



Nehemiah S. Glanc

cc: All counsel via e-mail

Fact discovery closes Nov. 18. The parties shall make themselves available for a telephone conference with the Court on 9/6/11 at 3 pm in the event this dispute is not resolved. It is to that time the parties must confer together, in person or by telephone, to resolve their dispute.

*Denise Cote
Aug. 30, 2011*