

## Washington's National Gallery wraps up Vuillard catalogue plagiarism suit with \$37,500 payment to Annette Leduc and Brooks Beaulieu

However, a complaint lodged against Guy Cogeval, Antoine Salomon and Mathias Chivot was met with a counter-suit arguing that evidence had been fabricated

JASON EDWARD KAUFMAN  
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The National Gallery of Art, in Washington, DC, has admitted copyright infringement and agreed to pay two Edouard Vuillard scholars \$37,500 for publishing a catalogue that uses their research without authorisation or acknowledgement.

As first reported in The Art Newspaper in 2004, Annette Leduc Beaulieu and her husband Brooks Beaulieu filed a copyright infringement suit that year in the US Court of Federal Claims, charging unauthorised use of their material in the exhibition catalogue of the Vuillard retrospective co-published by the National Gallery of Art (NGA) and the Montreal Museum of Fine Arts (MMFA) in 2003.

The 520-page catalogue includes essays by Guy Cogeval, the director of the Montreal Museum of Fine Arts and lead curator of the exhibition, as well as by co-curators Kimberly Jones of the National Gallery, Laurence des Cars of the Musée d'Orsay, and Maryanne Stevens of the Royal Academy in London, with contributions by several other scholars.

Ms Beaulieu had earlier been contracted by the National Gallery when she was being considered to curate the retrospective. She maintained that research she and her husband submitted was appropriated without their consent for the exhibition catalogue. The federal judge sent the case—*Beaulieu vs the United States*—to mediation and a settlement was reached in March. Under the terms of the agreement, the director of the National Gallery of Art, Earl A. Powell III, sent a letter to the Beaulieus, dated 27 March 2006, acknowledging that portions of their work “were consulted and used”. The letter states: “As co-publisher of the exhibition catalogue, the National Gallery sincerely regrets the failure to cite your materials and any harm that this may have caused to your personal or professional reputations.”

The settlement also resulted in payment of damages of \$37,500, an amount that the Beaulieus’ lawyer, Steven P. Hollman of Hogan & Hartson LLP in Washington, DC, says exceeds the \$30,000 statutory limit for copyright infringement that would apply if the act had not been willful. He says that the gallery denied wrongdoing even after the exhibition’s curator Kimberly Jones had informed the gallery’s general counsel that she had inadvertently included passages from the Beaulieus’ research. “Continuing to distribute the published manuscript was willful infringement. That is why we insisted they pay more than the statutory range and they agreed,” says Mr Hollman.

#### French case

The Beaulieus filed a parallel complaint in 2004 in the Tribunal de Grande Instance de Paris concerning the authors and publishers of the Vuillard catalogue raisonné published in 2003. That case charges copyright infringement by Guy Cogeval, the author; Antoine Salomon, Vuillard’s grandnephew and a catalogue contributor; Mathias Chivot, another contributor; and the catalogue’s co-publishers the Wildenstein Institute, Wildenstein Institute Publications, and Skira Editore. That proceeding is on hold while the court deals with a counter-suit filed by Messrs Salomon, Chivot and Cogeval charging the Beaulieus with forgery and attempted fraud. According to French law, the criminal matter must be resolved before the civil case continues.

Regarding the pending French proceedings, lawyers for the Montreal Museum of Fine Arts state: “Mr Cogeval does not contemplate to settle with Mr Beaulieu and Ms Leduc since the proceedings have been suspended for the moment because it has been found that the lawsuit was based on misleading and fraudulent elements, the gravity of which prompted Guy Cogeval and others to file a legal complaint against Mr Beaulieu and Ms Leduc for forgery and use of forged documents, attempted fraud and breach of trust.”

The suit was filed “purely for dilatory purposes,” says the Beaulieus’ lawyer Bruce C. Mee, the head of the litigation and arbitration department of DLA Piper Rudnick Gray Cary in Paris. He says the criminal case is based on the fact that whereas the Beaulieu manuscript was registered for copyright purposes in France in 2002, the transcript submitted in the infringement case is dated 2004—the manuscript was printed from a disquette and was automatically redated when the bailiff printed the document, says Mr Mee. “This perfectly illustrates the level of seriousness of the Salomon-Cogeval complaint,” he says, adding that he expects the investigating magistrate to issue a non-lieu (a decision that there is no basis for prosecution). “The Beaulieus reserve their right to seek damages for malicious prosecution, abuse of process in connection with these manoeuvres,” he adds.

Mr Cogeval has stated his position in a lengthy rejection of the Beaulieu claim published in *The Art Newspaper*, in September 2004. In this statement, published under the headline “Nobody owns the details of an artist’s life or work”, he dealt with the two main charges of plagiarism levelled against him, which concerned his “copying” of the technical data describing each work and the compilation of the chronology. Mr Cogeval stated that the technical data was the collective work of generations of researchers, as the inventory cards in the Vuillard archive testify, and that the chronology was essentially a series of historical facts which included significant additions by him and other scholars as well as the Beaulieus. On his interpretation of Vuillard’s life in the catalogue raisonné, he stated that “it would be hard to find even a hint” in the Beaulieus’ work.

As soon as the US case was settled, the Montreal Museum of Fine Arts issued a press release declaring the museum and its director “completely

exonerated”. Lawyers for the MMFA state: “Mr Cogeval is not part of the [US] settlement and, as such, neither himself nor the MMFA have admitted any type of liability.”

“That is laughably absurd. There was no acknowledgement of their lack of responsibility for the copyright infringement,” counters the Beaulieus’ US lawyer Mr Hollman. “Just the opposite: the Beaulieus continue to maintain that Cogeval, the principal author of the catalogue, does bear responsibility, and we believe he himself may have engaged in acts of copyright infringement separately [from the NGA curator]. That issue is one being presented in the French litigation.” Lawyers for the MMFA respond: “Mr Cogeval has always been willing to demonstrate with hard evidence that he has not engaged in any act of copyright infringement whatsoever.”

Mr Cogeval has compiled a detailed dossier on the case, which he says exonerates him.

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