

Art, Cultural Heritage, and the Law

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Cases and Materials

THIRD EDITION

Patty Gerstenblith

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*To Sam
Jennifer, Shira, and Theo*

Contents

Preface to the Third Edition	xvii
Acknowledgments	xix
1 • An Introduction to Art and Cultural Heritage Law	3
Section A. What Is Art?	4
Mazer v. Stein	4
Notes & Questions	8
Stephanie Giry, <i>An Odd Bird</i>	11
Notes & Questions	14
Section B. Art and Cultural Heritage	16
Lyndel V. Prott and Patrick J. O’Keefe, <i>Cultural Heritage or Cultural Property</i>	18
Notes & Questions	20
I	
Artists’ Rights	23
2 • Freedom of Expression	25
Section A. Government Regulation of Artistic Expression	26
Bery v. New York	26
Notes & Questions	32
Close v. Lederle	36
Piarowski v. Illinois Community College	37
Notes	41
Problem	43
Section B. Right of Publicity/Right of Privacy and the First Amendment	43
Comedy III Productions, Inc. v. Saderup	44
Notes & Question	52
Hoepker v. Kruger	54
Notes & Question	59
Problem	59
Section C. Government Support of the Arts	59
National Endowment for the Arts v. Finley	60
Notes & Questions	72
Brooklyn Inst. of Arts & Sciences v. New York & Rudolph W. Giuliani	73
Notes & Questions	83
Note: Museum Ethics	84
American Association of Museums Guidelines on Exhibiting Borrowed Objects	85
Problems	86

3 • Copyright	87
Section A. Eligibility for Copyright Protection	89
1. Copyrightable Subject Matter	90
2. Fixation	91
3. Originality	91
Schrock v. Learning Curve Int’l, Inc.	92
Notes & Questions	99
Problem	104
Section B. Ownership of Copyright and the Work Made for Hire Doctrine	104
Community for Creative Non-Violence v. Reid	106
Notes & Questions	113
Problems	114
Section C. Infringement	115
Rogers v. Koons	115
Leigh v. Warner Brothers, Inc.	121
Notes & Questions	124
Problems	126
Section D. Defenses to Claims of Infringement: Fair Use	127
Ringgold v. Black Entertainment Television, Inc.	128
Leibovitz v. Paramount Pictures Corporation	134
Notes & Questions	140
Problem	143
Section E. Copyright in Architectural Works	144
Shine v. Childs	146
Notes & Questions	155
Problem	157
Leicester v. Warner Brothers, Corp.	158
Notes & Questions	166
4 • Moral Rights Doctrine	169
Section A. Moral Rights before Enactment of the Visual Artists Rights Act	169
1. Moral Rights in the Absence of Statute	170
Notes	171
2. State Statutes Protecting Moral Rights	173
Notes	174
Section B. The Visual Artists Rights Act of 1990	174
1. Introduction	174
Notes & Questions	175
2. Qualification of a Work of Art for Protection under VARA	177
Carter v. Helmsley-Spear, Inc.	177
Notes & Questions	182
3. Work of Recognized Stature	184
Martin v. City of Indianapolis	184
Notes & Questions	190
4. Site-Specific Art	192
Phillips v. Pembroke Real Estate, Inc.	192
Notes	204
Problem	206
5. VARA and State Moral Rights Statutes: Preemption	206

Board of Managers of Soho International Arts Condominium v. New York	206
Notes & Questions	216
Problem	217
II	
Museums, Merchants, and Markets	219
5 • Museums	221
Section A. The History of Museums in the United States	222
Karl E. Meyer, <i>The Art Museum: Power, Money, Ethics</i>	222
Notes & Questions	233
Section B. Legal Structures of Museums	235
1. Museums as Not-for-Profit Organizations: State Regulation	235
The People ex rel. William J. Scott, Attorney General v. George F. Harding Museum	236
Notes & Questions	241
2. Museums as Tax-Exempt Entities: Federal Regulation	243
a. Donations of Art Works by the Artist	247
b. Unrelated Business Income Tax	250
Problems	253
Section C. Fiduciary Obligations of Museum Trustees	253
1. Duty of Loyalty	255
a. Loyalty to the Trust Purpose	255
Commonwealth v. The Barnes Foundation	255
Notes & Questions	259
b. Conflicts of Interest and Self-Dealing	260
c. Doctrines of <i>Cy Pres</i> and Deviation	261
In the Matter of the Application of Lewis Nixon, Sr.	261
Georgia O’Keeffe Foundation (Museum) v. Fisk University	265
The Barnes Foundation Litigation	279
Notes & Questions	284
2. Duty of Care: Management of Museum Collections	287
Notes & Questions	293
Problems	296
6 • Art Merchants—Auction Houses and Dealers	299
Section A. The Sale Transaction	300
Phoenix Ancient Art, S.A. v. Kimbell Art Foundation	300
Weil v. Murray	303
Notes & Questions	307
Section B. Sales on Consignment: The Fiduciary Relationship	310
Cristallina S.A. v. Christie, Manson & Woods International, Inc.	310
Greenwood v. Koven	316
Notes	327
Section C. Special Relationship between Merchant and Artist	333
In the Matter of the Estate of Mark Rothko	334
Notes & Questions	338
Note: Artist Consignments	341

Illinois Consignment of Art Act	341
Notes & Questions	344
7 • Questions of Quality and Authenticity	345
Section A. Law before the Uniform Commercial Code	346
1. Common Law Theories	346
Jendwine v. Slade	346
Power v. Barham	347
Notes	349
2. Uniform Sales Act	350
Weisz v. Parke-Bernet Galleries, Inc.	350
Section B. Uniform Commercial Code	352
1. Warranty of Authenticity	352
Rogath v. Siebenmann	355
Notes & Questions	359
Problem	362
2. Statutes of Limitation for Breach of Warranty of Authenticity	362
Krahmer v. Christie's Inc.	362
Krahmer v. Christie's Inc.	370
Balog v. Center Art Gallery-Hawaii, Inc.	376
Notes & Questions	384
Section C. Remedies under Art Market Legislation	388
Notes & Questions	389
Levin v. Gallery 63 Antiques Corp.	389
Notes & Questions	403
Problem	406
Section D. Liability for Authentication	406
Hahn v. Duveen	407
Boule v. Hutton	411
Notes & Questions	419
Problem	423
Note: Artist-Endowed Foundations and Authentication Boards	423
8 • Questions of Title	427
Section A. Entrustment and Voidable Title	429
Porter v. Wertz	430
Notes & Question	434
Problem	437
Section B. Statutes of Limitation and the Equitable Defenses	438
1. Statutes of Limitation: The Demand and Refusal Rule	438
Kunstsammlungen zu Weimar v. Elicofon	439
Notes & Questions	444
Problem	445
2. Statutes of Limitation: Discovery and Due Diligence	445
O'Keeffe v. Snyder	445
Notes & Questions	455
3. Statutes of Limitation: Actual Discovery	457
Naftzger v. American Numismatic Society	457
Notes & Questions	460
4. Demand and Refusal Revisited and the Equitable Defenses	462

Solomon R. Guggenheim Foundation v. Lubell	462
In re Peters	466
Notes & Questions	472
Section C. Art Merchant Liability for Breach of Warranty of Title	477
1. Statutes of Limitation for Breach of Warranty of Title	477
Doss v. Christie's	477
Notes & Questions	480
2. Damages for Breach of Warranty of Title	481
Menzel v. List	481
Notes & Questions	482
Section D. Civil Law Good Faith Purchaser Doctrine and Choice of Law	486
Autocephalous Greek-Orthodox Church of Cyprus and the Republic of Cyprus v. Goldberg & Feldman Fine Arts, Inc.	487
Bakalar v. Vavra	509
Notes & Questions	516
Problems	520
Section E. Bailment	524
Mucha v. King	524
Notes & Questions	530
Problem	532
 III Cultural Heritage	
9 • Cultural Heritage in Time of War and in the Aftermath of War	537
Section A. Development of Law of War as Applied to Cultural Heritage	537
1. Introduction	537
2. Early Development of the Law of War as Applied to Cultural Heritage	539
The Marquis de Somerueles	540
Notes & Questions	541
Instructions for the Government of Armies of the United States in the Field (The Lieber Code)	543
3. The 1954 Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict and Its Protocols	544
a. Preamble	545
b. Definition of Cultural Property	545
c. Obligations during War and Occupation	546
d. First Protocol	547
e. Second Protocol	547
Notes & Questions	548
Note: United States Ratification of the 1954 Hague Convention	551
Notes & Questions	552
4. The 2003 Gulf War, the Hague Convention and the International Response	554
Problems	557
Zainab Bahrani, <i>Desecrating History</i>	558
Section B. The Special Case of Cultural Objects during World War II	561
1. Background	561
2. Expropriation	565
a. Act of State Doctrine	565

Menzel v. List	565
Notes & Questions	574
b. Foreign Sovereign Immunity	579
Republic of Austria v. Altmann	579
Cassirer v. Kingdom of Spain	588
Notes & Questions	596
3. Forced Sales	601
Vineberg v. Bissonnette	601
Notes & Questions	606
Note: The <i>Portrait of Wally</i> Litigation	608
Notes & Questions	611
4. Museums and Self-Regulation	614
Washington Conference Principles on Nazi-Confiscated Art	615
Report of the AAMD Task Force on the Spoliation of	
Art during the Nazi/World War II Era 1933–1945	616
Addendum to the Report of the AAMD Task Force on the	
Spoliation of Art during the Nazi/World War II Era 1933–1945	619
Notes & Questions	619
Problems	621
10 • Cultural Heritage in the International Context	623
Section A. Introduction: The Cultural Heritage Debate	623
John Henry Merryman, <i>The Free International Movement of</i>	
<i>Cultural Property</i>	626
Rosemary J. Coombe, <i>The Properties of Culture and the Politics of Possessing</i>	
<i>Identity: Native Claims in the Cultural Appropriation Controversy</i>	629
Simon R.M. Mackenzie, <i>Dig A Bit Deeper: Law, Regulation and the Illicit</i>	
<i>Antiquities Market</i>	632
Notes & Questions	639
Section B. The International Response	643
Clemency C. Coggins, <i>Illicit Traffic of Pre-Columbian Antiquities</i>	643
Notes	645
Note: Archaeological Context and the Looting of Sites	647
1. UNESCO Convention on the Means of Prohibiting and Preventing	
the Illicit Import, Export and Transfer of Ownership of	
Cultural Property (1970)	649
Problem	650
Notes	651
2. United States Implementation of the 1970 UNESCO Convention	653
U.S. Senate Report No. 97-564	653
Notes & Questions	655
a. Stolen Cultural Property: Section 308 of the CPIA	655
Autocephalous Greek-Orthodox Church of Cyprus v.	
Goldberg and Feldman Fine Arts, Inc.	657
Notes & Questions	659
Problem	659
b. Import Restrictions: Sections 303 and 304 of the CPIA	660
3. Implementation of the 1970 UNESCO Convention by Other	
Market Nations	665

Section C. Illegal Conduct in the International Movement of Cultural Objects	667
1. Smuggling: Export and Import	667
a. Illegal Export	667
b. Illegal Import	668
United States v. An Antique Platter of Gold, known as a Gold Phiale Mesomphalos c. 400 B.C.	668
Notes & Questions	673
2. Theft	677
a. National Ownership Laws in U.S. Court	678
United States v. Schultz	678
Notes & Questions	692
Note: Litigation from McClain to Schultz	698
Problem	700
b. National Ownership Laws in British Court	700
Government of the Islamic Republic of Iran v. The Barakat Galleries Ltd.	700
Notes & Questions	727
Section D. The Cultural Heritage Debate Revisited: The Role of Museums	728
James Cuno, <i>The Whole World's Treasures</i>	729
Declaration on the Importance and Value of Universal Museums	730
Notes	731
Report of the AAMD Task Force on the Acquisition of Archaeological Materials and Ancient Art (revised 2008)	731
American Association of Museums Standards Regarding Archaeological Material and Ancient Art	734
Policy Statement: Acquisitions by the J. Paul Getty Museum	735
Notes & Questions	736
Problem	740
Note: The Getty Saga	741
United States v. An Antique Platter of Gold	747
United States v. An Antique Platter of Gold	749
Notes & Questions	751
Note: Immunity from Seizure	751
Notes	753
Problem	754
11 • Cultural Heritage of the United States	755
Section A. Historic Preservation	755
1. Historic Preservation and Regulatory Takings Jurisprudence	757
Penn Central Transportation Co. v. New York City	758
Notes	766
2. The National Historic Preservation Act	769
Pye v. United States	770
Notes & Questions	777
Okinawa Dugong (Dugong Dugon) v. Gates	783
Notes & Questions	799
Section B. Archaeological Resources on Land	802
1. Common Law	804
Allred v. Biegel	804
Notes & Questions	805

2. Federal Legislation	808
a. Antiquities Act of 1906	808
b. Archaeological Resources Protection Act of 1979	809
Notes	809
Problem	810
(1) ARPA Enforcement	810
(a) Criminal Intent	810
United States v. Lynch	811
United States v. Quarrell	815
Notes & Questions	821
(b) ARPA Penalties	823
United States v. Shumway	824
Notes & Questions	829
(2) Application of ARPA to Archaeological Sites Not on Federal Lands	832
United States v. Gerber	832
Note: ARPA in the International Context	836
Notes & Questions	837
3. State Legislation	838
a. State Statutes	838
b. Application of State Statutes to Private Land	840
Whitacre v. State	840
Notes & Questions	843
Section C. Underwater Cultural Resources	844
1. Law of Admiralty/Law of Salvage	844
a. Intent to Abandon	844
Columbus-America Discovery Group v. Atlantic Mutual Insurance Company	844
Notes & Questions	853
b. Abandoned Shipwreck Act	854
California and State Lands Commission v. Deep Sea Research, Inc.	855
Notes & Questions	859
Problem	861
2. International Issues	862
a. The Titanic	862
b. Foreign Sovereign Immunity	865
c. International Law	866
12 • Indigenous Cultural Heritage	869
Section A. Native American Remains in the Absence of Statutory Regulation	872
Charrier v. Bell	872
Notes	876
Note: Native American Free Exercise of Religion	877
Section B. The Native American Graves Protection and Repatriation Act (NAGPRA)	881
1. Newly Discovered Remains and Objects	882
Bonnichsen v. United States	883
Notes & Questions	894
Note: Oral Tradition in the Courts	897

Catherine E. Bell & Robert K. Paterson, <i>Aboriginal Rights to Cultural Property in Canada</i>	898
2. Restitution from Museum Collections	899
Fallon Paiute-Shoshone Tribe v. United States Bureau of Land Management	901
Notes	915
3. Trafficking Provisions	918
United States v. Corrow	919
Notes & Question	924
Problem	925
Section C. Regulation, Restitution, and Takings Clause Jurisprudence	926
1. State Protection of Native American Burials and Regulatory Takings	926
Hunziker v. Iowa	927
Note: Regulatory Takings Jurisprudence	932
Notes & Questions	933
2. Regulatory Takings Doctrine and Personal Property	933
Andrus v. Allard	934
Notes	939
Section D. Appropriation of Intangible Indigenous Culture	940
Estate of Witko v. Hornell Brewing Co.	940
Notes & Questions	944
Bulun Bulun v. R & T Textiles Pty Ltd.	946
Isabella Alexander, <i>White Law, Black Art</i>	958
Notes & Questions	959
Appendix • Conventions and Legislation	963
Section A. International and Regional Conventions	963
Hague Convention on the Protection of Cultural Property in the Event of Armed Conflict and the First Protocol	963
Second Protocol to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict	974
UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property	987
UNESCO Convention on the Protection of the Underwater Cultural Heritage	994
Unidroit Convention on Stolen or Illegally Exported Cultural Objects	1009
Council Regulation (EC) No 116/2009	1017
Council Directive 93/7/EEC of 15 March 1993	1022
Section B. United States Federal and State Legislation	1031
Abandoned Shipwreck Act	1031
Antiquities Act	1033
Archaeological Resources Protection Act	1034
Convention on Cultural Property Implementation Act	1039
Importation of Pre-Columbian Monumental or Architectural Sculpture or Murals Act	1052
National Historic Preservation Act	1054
Native American Graves Protection and Repatriation Act	1070
Illegal Trafficking in Native American Human Remains and Cultural Items	1081
United States Sentencing Guideline: Cultural Heritage Resource Crimes	1081
Visual Artists Rights Act (1990)	1088

California Civil Code §987: Protection of fine art against alteration or destruction; Actions; Removal of work from property	1092
New York Consolidated Laws Chap. 11-C	1094
Section C. Foreign Legislation	1109
Canada Cultural Property Export and Import Act, R.S.C. 1985, c. C-51, §37: Foreign Cultural Property	1109
Switzerland Federal Act on the International Transfer of Cultural Property (Cultural Property Transfer Act)	1110
United Kingdom Dealing in Cultural Objects (Offences) Act 2003	1118
Table of Cases	1121
Table of Authors	1129
Index	1133

Preface to the Third Edition

The intersection of law with art and cultural heritage has come into its own only in the past few years. But the vibrancy and excitement of this area are demonstrated by the need for a new edition of this casebook. Particularly striking are the pace at which new developments have occurred and the extent of current litigation.

The purpose of this book is to draw this discipline into the mainstream of the American law school curriculum and to present coherent legal doctrines in a fashion that binds together what often appear to be disparate areas of the law. This subject is increasingly important, not just because the amounts of money at stake continue to grow even as the national and international legal regimes have become more complex, but because we increasingly realize how important cultural heritage is to us as individuals, as communities, as a nation, and as part of our place in the international arena. Law students are attracted to the subject because it resonates with their sense of who they are and it will increasingly become an area of practice in the future.

Art and cultural heritage law is an inherently interdisciplinary topic drawing on history, art history, anthropology, archaeology, economics and international relations, to name just a few. This casebook brings in that interdisciplinary flavor, particularly by showing the students illustrations of many of the art works that were at stake in the legal disputes they study.

There are many individuals who contributed in important ways to the publication of this book. Several colleagues used early versions of the casebook. They and those who used the earlier editions contributed valuable suggestions for improvements in this edition. In particular, I want to thank Jane Levine, Jennifer Richman, Lucille Roussin, Leila Amineddoleh, Stephen Cribari, Lolly Gasaway, Morag Kersel and Carla Shapreau for their valuable contributions and suggestions. The students in my classes at DePaul have also provided valuable feedback. I owe a particular debt of gratitude to my research assistants, Kelly Kuglitsch, Rebecca Martel, Elizabeth Marie Lally, and Dana Duffield, who worked on the first edition, Jennifer Marie Wegmann and Jo Ann G. Lim, who assisted with the second edition, and Heather Hope Stephens, who worked on the third edition. Vadim Shifrin, the assistant director of the Center for Art, Museum, and Cultural Heritage Law, provided significant assistance in preparation of the third edition. I am grateful, as well, to the many teachers from whom I have learned. Finally, I thank my family for their constant love, patience, and support.

Patty Gerstenblith
June 2012

Author's note: Footnotes to the text, opinions, and other quoted materials are numbered consecutively within each chapter. Some footnotes in opinions and secondary materials are omitted. The format for citations has been harmonized.

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Books & Articles

- Alexander, Isabella, *White Law, Black Art*, 10 *Int'l J. Cultural Prop.* 185, 194-95 (2001). Copyright © 2001 Isabella Alexander. Reprinted by permission of Isabella Alexander.
- Bell, Catherine E. & Robert K. Paterson, *Aboriginal Rights to Cultural Property in Canada, inbox of Treasures or Empty Box: Two Decades of Section 35*. Copyright © 2003 Theytus Books. Reprinted by permission of Theytus Books Ltd.
- Coggins, Clemency C. *Illicit Traffic of Pre-Columbian Antiquities*, *Art Journal* (1969). Copyright © 1969 *Art Journal*. Reprinted by permission of Clemency C. Coggins.
- Coombe, Rosemary J., *The Properties of Culture and the Politics of Identity: Native Claims in the Cultural Appropriation Controversy*, 6 *Canadian J. of L. & Juris.* 249, 259-65 (1993). Copyright © 1993 Rosemary Coombe. Reprinted by permission of Rosemary Coombe.
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- Merryman, John Henry, *The Free International Movement of Cultural Property*, 31 *N.Y.U. J. Int'l L. & Pol.* 1, 4-14 (1998). Copyright © 1998 New York University School of Law. Reprinted by permission of John Henry Merryman.
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Figures

Chapter 1

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Chapter 8

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Chapter 9

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Fig. 9-3, page 556. A Lioness attacks a Nubian. Chryselephantine (gold and ivory) inlay plaque, Nimrud. Photo Credit: Scala/Art Resource, NY. Iraq Museum, Baghdad, Iraq.

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Chapter 10

Fig. 10-1, page 624. Anonymous. Horsemen with Attendants Preparing to Form the Panathenaic procession, West Frieze from The Parthenon, Athens. 477-432 B.C. British Museum, London. Photo © Art Resource, NY.

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Fig. 10-3a, page 679. Head of Amenhotep III. Photo © Jonathan Tokeley-Parry. Reprinted by permission of Jonathan Tokeley-Parry.

Fig. 10-3b, page 679. Head of Amenhotep III with gold paint. Photo © Jonathan Tokeley-Parry. Reprinted by permission of Jonathan Tokeley-Parry.

Fig. 10-4, page 697. Artemis and the Stag. Photograph Courtesy of Sotheby's, Inc. © 2007.

Fig. 10-5, page 697. Guennol Lioness. Photograph Courtesy of Sotheby's, Inc. © 2007.

Fig. 10-6, page 742. Cult Statue of Goddess, possibly Aphrodite. Limestone and marble. H.: 7 ft 6 in. Greek, South Italy, possibly Sicily, 425-400 B.C.E. Courtesy of the Ministero per i Beni Culturali, Republic of Italy.

Chapter 11

Fig. 11-1, page 759. Frank English. Exterior of Grand Central Terminal. Reproduced by permission of the MTA, Metro-North Commuter Railroad, New York, NY.

Fig. 11-2, page 759. Frank English. Façade of Grand Central Terminal. Reproduced by permission of the MTA, Metro-North Commuter Railroad, New York, NY.

Fig. 11-3, page 823. Petroglyph. Photo courtesy of USDA Forest Service, Humboldt-Toiyabe National Forest.

Chapter 12

Fig. 12-1, page 947. George Milpurrurru. *Magpie Geese and Water Python*. © 2012 Artosts Rights Society (ARS), NY/VISCOPY, Australia. Reprinted by permission of The National Gallery of Australia.

Color Plates

Plate 1. Georgia O'Keeffe, Radiator Bldg.-Night N.Y. 1927 Oil on Canvas, 48" x 30". Alfred Stieglitz Collection, Carl van Vechten Gallery of Fine Arts, Fisk University, Nashville, TN. © 2012 Georgia O'Keeffe Museum/Artists Rights Society (ARS), New York.

Plate 2. Mark Rothko, No. 20, 1949. Oil on Canvas, 56" x 48". Collection of Christopher Rothko. © 2012 Artists Rights Society (ARS), New York/ADAGP, Paris. Photo by Christopher Burke/Art Resource, NY.

Plate 3. Georgia O'Keeffe, Seaweed, 1923. Oil on Canvas, 7" x 7". Collection of Juan Hamilton. © Juan Hamilton, Abiquiu, New Mexico. Photo by Malcolm Varon.

Plate 4. Camille Pissarro, Rue Saint Honoré, 1897. Museo Thyssen-Bornemisza, Madrid, Spain. Photo Nimatallah/Art Resource, NY.

Plate 5. Mosaic, The Apostle James. Panagia Kanakaria, Lythrankomi, Cyprus. Photo by E. Hawkins, courtesy of Dumbarton Oaks, Byzantine Photograph and Fieldwork Archives, Washington, D.C.

Plate 6. Mosaic, The Apostle James, Panagia Kanakaria Mosaics, post-removal, Lythrankomi, Cyprus. Photo by Catherine Sease. Reproduced by permission of Catherine Sease.

Plate 7. Apse of the Panagia Kanakaria, Lythrankomi, Cyprus. Photo by E. Hawkins, courtesy of Dumbarton Oaks, Byzantine Photograph and Fieldwork Archives, Washington, D.C.

Plate 8. Egon Schiele, Portrait of Wally, 1912. Oil on wood, 33 cm x 40 cm. Coll. Leopold, Vienna. Photo © Erich Lessing/Art Resource, NY.

- Plate 9. Gustav Klimt, Mrs. Adele Bloch-Bauer I. 1907. Neue Galerie. New York. Photo © Erich Lessing/Art Resource, NY.
- Plate 10. Gustav Klimt, Mrs. Adele Bloch-Bauer II. Private Collection. Photo © Erich Lessing/Art Resource, NY.
- Plate 11. The Phiale of Achyris. Hellenistic, Gold, 23 cm x 4 cm. Photo Copyright © 1997 Ira Block. Reproduced by permission of Ira Block.
- Plate 13. Relief Panel from the Tomb of Wang Chuzi, Fifth Dynasty (906–990 C.E.), located in Hebei Province of the People's Republic of China. Photo courtesy of U.S. Customs.