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Archives of American Art

A Finding Aid to the Barbara Mathes Gallery Records Pertaining to *Rio Nero* Lawsuit, 1989-1995, in the Archives of American Art

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Table of Contents

Collection Overview	1
Administrative Information	1
Historical Note.....	2
Scope and Content Note.....	2
Arrangement.....	2
Names and Subjects	2
Container Listing	4
Series 1: Correspondence, 1989-1995.....	4
Series 2: Legal Documents, 1991-1994.....	5
Series 3: Printed Material, 1993-1995.....	7
Series 4: Photographs, 1989-1993.....	8

Collection Overview

Repository:	Archives of American Art
Title:	Barbara Mathes Gallery records pertaining to <i>Rio Nero</i> lawsuit
Date:	1989-1995
Identifier:	AAA.barbmatg
Creator:	Barbara Mathes Gallery (New York, N.Y.)
Extent:	1.4 Linear feet
Language:	English .
Summary:	The Barbara Mathes Gallery records pertaining to <i>Rio Nero</i> lawsuit measure 1.4 linear feet and date from 1989-1995. The records, assembled by Barbara Mathes, relate to the lawsuit Greenberg Gallery, Inc., et al. v. Patricia Bauman, et al. and the authenticity of the Alexander Calder mobile <i>Rio Nero</i> . The files contain correspondence, purchase and shipping records, and legal documents. The collection also includes printed material and photographs of the mobile.

Administrative Information

Provenance

The papers were donated to the Archives of American Art by Barbara Mathes in 2005.

Processing Information

The collection was processed by Carla De Luise in 2007.

Preferred Citation

The Barbara Mathes Gallery records pertaining to *Rio Nero* lawsuit, 1989-1995. Archives of American Art, Smithsonian Institution.

Restrictions on Access

The collection is open for research. Use requires an appointment.

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Historical Note

In 1959 Alexander Calder (1898-1976) created a black metal mobile titled *Rio Nero* which collector Lionel Bauman purchased from the Perls Galleries, New York City (1967). Patricia Bauman received *Rio Nero* from her father's estate in 1989 and consigned the mobile to the Herbert Palmer Gallery in Los Angeles and L & R Entwistle and Co., Ltd. in London. The Greenberg Gallery, Saint Louis, Missouri, purchased the mobile for \$500,000 from L & R Entwistle in March 1990. The Barbara Mathes Gallery, New York; Donald Morris Gallery, Inc., Birmingham, Michigan; and John C. Stoller & Co., Minneapolis, Minnesota, each acquired a twenty-five percent share in the mobile from the Greenberg Gallery.

In May 1990, the gallery owners saw the mobile for the first time and noticed that the work neither hung properly nor moved in a manner consistent with other Calder mobiles. In December 1990, the owners asked Klaus Perls, the noted authority on Calder and the artist's primary dealer from 1955-1976, to authenticate the *Rio Nero* mobile. After Perls deemed the work a forgery, Patricia Bauman declined to reverse the sale and the four galleries instituted legal proceedings. The plaintiffs, Greenberg Gallery et al., contended that Patricia Bauman, or someone acting on her behalf, switched the original mobile with a forgery and then presented it to L & R Entwistle as a Calder mobile.

In April 1993, the case was tried without a jury in Washington, D. C. and the Federal District Court awarded judgment to the defendants, Patricia Bauman and L & R Entwistle. The judge presiding over the case, Judge Oberdorfer, ruled out the testimony of Klaus Perls and the plaintiffs subsequently appealed the case. In 1994, the Alexander and Louisa Calder Foundation declined to include the mobile in the catalogue raisonné on the artist. On appeal, judgment was not overturned.

Scope and Content Note

The Barbara Mathes Gallery records pertaining to *Rio Nero* lawsuit measure 1.4 linear feet and date from 1989-1995. The collection, assembled by Barbara Mathes, relates to the lawsuit Greenberg Gallery, Inc., et al. v. Patricia Bauman, et al. regarding the authentication of the Alexander Calder mobile *Rio Nero*. The Barbara Mathes Gallery, co-owner of the mobile was a plaintiff in the lawsuit. The files contain correspondence between co-owners of the mobile, letters and accompanying legal documents from their attorney, purchase and shipment records, and invoices for legal fees. Legal documents are comprised of depositions, findings of fact, transcripts of proceedings, trial exhibits, and appeal briefs. Printed material includes clippings and magazine articles relating to the trial. The collection also contains photographs of the mobile.

Arrangement

The collection is arranged as four series:

Missing Title:

- Series 1: Correspondence, 1989-1995 (Box 1; 0.4 linear feet)
 - Series 2: Legal Documents, 1991-1994 (Box 2; 0.9 linear feet)
 - Series 3: Printed Material, 1993-1995 (Box 2; 1 folder)
 - Series 4: Photographs, 1989-1990, 1993 (Box 2; 2 folders)
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Names and Subject Terms

This collection is indexed in the online catalog of the Smithsonian Institution under the following terms:

Subjects:

Women art dealers
Women art historians

Types of Materials:

Legal documents
Photographs

Names:

Bauman, Patricia
Calder, Alexander, 1898-1976
Howard Greenberg Gallery (New York, N.Y.)
Mathes, Barbara

Occupations:

Art historians -- New York (State) -- New York
Gallery owners -- New York (State) -- New York

Functions:

Art galleries, Commercial -- New York (State)

Container Listing

Series 1: Correspondence, 1989-1995

0.4 Linear feet (Box 1)

Scope and Contents: Correspondence is primarily between defendants Barbara Mathes, Ronald Greenberg, Donald Morris, and John C. Stoller, principals in the galleries that purchased the *Rio Nero* mobile and plaintiffs in the case against Patricia Bauman et al. Included are letters and legal documents from their attorney.

Letters between Barbara Mathes and Meredith Palmer, director of the Herbert Palmer Gallery, concern the appraisal of Lionel Bauman's collection in 1987. This series also contains purchase and shipment receipts for *Rio Nero*, invoices for legal services and a photocopy of a letter from Alexander S. C. Rower, written on behalf of the Calder Foundation in 1994, in which Rower declines to include the mobile in the catalogue raisonné on the artist.

Arrangement: Material within folders is arranged chronologically.

Box 1, Folder 1	General, 1989-1991, undated
Box 1, Folder 2-3	General, 1992
Box 1, Folder 4	General, 1993
Box 1, Folder 5	General, 1994-1995
Box 1, Folder 6	Appeal, 1991-1994, undated
Box 1, Folder 7	Invoices for Legal Fees, 1991-1993, undated
Box 1, Folder 8	Purchase of <i>Rio Nero</i> , 1990-1991, undated
Box 1, Folder 9	Shipment of <i>Rio Nero</i> , 1990-1994, undated

[Return to Table of Contents](#)

Series 2: Legal Documents, 1991-1994

0.9 Linear feet (Box 2)

Scope and Contents: This series contains depositions, findings of fact, transcripts of proceedings, trial exhibits, judge's memorandum and opinion, and appeal briefs.

The deposition of Andre Emmerich, prominent gallery owner and President of the Board of Directors of the Art Dealers Association of America, credits Klaus Perls as a Calder expert.

Additional legal documents may be found in Series 1: Correspondence.

Arrangement: Documents are organized by sequence of events and material within folders is arranged chronologically. Depositions are arranged alphabetically by last name.

Box 2	Depositions
Box 2, Folder 1	Patricia Bauman, 1991
Box 2, Folder 2	Laurence Casper, 1992
Box 2, Folder 3	Andre Emmerich, 1992
Box 2, Folder 4	Lance Entwistle, 1992
Box 2, Folder 5	Roberta Entwistle, 1992
Box 2, Folder 6	Ronald Greenberg, 1991
Box 2, Folder 7	Barbara Mathes, 1991
Box 2, Folder 8	Donald Morris, 1991
Box 2, Folder 9	Klaus Perls, 1991
Box 2, Folder 10	Proposed Findings of Fact, 1992
Box 2, Folder 11	Findings of Fact, 1992
Box 2	Transcript of Proceedings
Box 2, Folder 12	Transcript, 1993, March 16
Box 2, Folder 13	Transcript, 1993, March 17
Box 2, Folder 14	Transcript, 1993, March 18
Box 2, Folder 15	Transcript, 1993, March 19
Box 2, Folder 16	Trial Exhibits and Exhibits List, 1993

Box 2, Folder 17 Memorandum and Opinion of Judge, 1993, April 1

Box 2, Folder 18 Brief of Plaintiffs-Appellants, 1994, May 18

Box 2, Folder 19 Brief of Amici Curiae, 1994, May 18

Box 2, Folder 20 Brief of Defendant-Appellee, 1994, June 17

Box 2, Folder 21 Reply Brief for Plaintiffs-Appellants, 1994, July 1

[Return to Table of Contents](#)

Series 3: Printed Material, 1993-1995

1 Folder (Box 2)

Scope and Contents: This series contains newspaper, magazine and journal clippings relating to the *Rio Nero* trial.

Arrangement: Material within the folder is arranged chronologically.

Box 2, Folder 22	Clippings, 1993-1995, undated
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[Return to Table of Contents](#)

Series 4: Photographs, 1989-1993

2 Folders (Box 2)

Scope and Contents: This series houses photographs and negatives of the contested mobile *Rio Nero*. The verso of one of the photographs is the handwritten, signed, and dated certification by Klaus Perls that the mobile is a forgery.

Box 2, Folder 23	Photographs and Negatives, Rio Nero, 1989-1993, undated
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Box 2, Folder 24	Photographs, Rio Nero, undated
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[Return to Table of Contents](#)