

Text Size: S M L



- Application fee waived!
- Meet with faculty
- Enjoy hors d'oeuvres
- Bring your transcripts and resume

Lawrence Tech

CLICK HERE



CRAIN'S DETROIT BUSINESS

Detroit and Southeast Michigan's premier local business news and information Web site



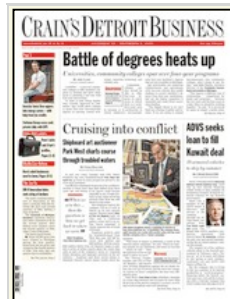
- Home
- News
- This Week's Issue
- Lists
- Web Features
- People
- Columns/Blogs
- Detroit Events
- Multimedia
- Detroit Jobs

Not logged in to community. [LOG IN](#) or [REGISTER](#) | [Free E-Mail Signup](#) | [Subscriber Service](#) | [Mobile](#) | [Contacts](#) | [Advertise](#) | [Classifieds](#)

SITE SEARCH

ADVANCED SEARCH

SEARCH SPONSORED BY:



This Week's Issue

Newsstand Locations

ADVERTISE WITH US

Advertising Center

FOLLOW CRAIN'S ON

Facebook

Twitter

RSS

Mobile

CONTACT CRAIN'S

Newsroom contacts

Get news in Crain's (PDF)

Editorial calendar (PDF)

Frequently asked questions

OTHER CRAIN'S SITES

Detroit Make it Here

Crain's Chicago Business

Crain's Cleveland Business

Crain's New York Business

Automotive News

Advertising Age

Crain Communications Inc.

POSTED: 8:00 p.m., Nov. 29, 2009
LAST MODIFIED: 8:13 p.m., Nov. 29, 2009

- Recommend
- Comment
- Email
- Print

Cruising into conflict: Shipboard art auctioneer Park West charts course through troubled waters

By [Chad Halcom](#)

In just two years, founder and CEO Albert Scaglione has seen Southfield-based **Park West Galleries Inc.** go from its most prosperous period to one of its most turbulent.

Layoffs have eliminated 40 percent of its workforce, revenue is down more than \$100 million from three years ago, and dozens of art buyers could become plaintiffs in any of eight lawsuits in four states involving artwork Park West has sold aboard cruise ships.

But Scaglione expects the company will go to trial in March on its own lawsuit against Phoenix-based **Global Fine Art Registry L.L.C.**, its CEO and a California gallery owner tied to an online "smear campaign" it claims spurred the reversal of fortune.

Scaglione projects sales for Southfield-based Park West this year will fall between \$150 million and \$200 million, off from nearly \$300 million before Fine Art Registry began to publish a series of online reports about the cruise ship sales as part of the company's focus on "exposing fraud, deception and improper practices in the art industry." Scaglione said those stories began to dominate Internet search engine results about his business.

"That kind of impact is definitely a result of the Internet smear campaign," he said. "These are baseless attacks on our reputation, and when we win this — which we will — then the question is how we get back to where we were."

But Theresa Franks, founder and CEO of Fine Art Registry, said buyers were leveling allegations against the art dealer before she ever got involved, and the more her company reports on buyer complaints, the more new allegations arise.

Park West's **Park West at Sea** subsidiary

Rated Not yet rated
Rate This ☆☆☆☆☆



CEO Albert Scaglione shows a sampling of artwork at Park West Galleries Inc. in Southfield. His company faces eight lawsuits over cruise ship auction sales and has sued another company over a "smear campaign."

Photo credit: Nathan Skid/Crain's Detroit Business

Advertisement

PARK WEST'S LAWSUITS

Southfield-based **Park West Galleries Inc.** is defending its reputation in nine pending lawsuits, eight filed against the gallery on behalf of art buyers and one filed by the gallery itself against a Phoenix company that has published buyers' allegations online.

In August, the federal Judicial Panel on Multidistrict Litigation found that most of the buyer lawsuits in

Most Read

- ◆ [The Detroit Daily Press suspends publication until 2010](#)
- ◆ [Senior tax breaks cost states, but likely to stay](#)
- ◆ [Canadian buyer seeks multiple sports at Pontiac Silverdome](#)
- ◆ [UM to introduce new Survival Flight plane to UP](#)
- ◆ [Charles Woodson donates \\$2 million to University of Michigan hospital](#)

Features

NORTH AMERICAN INTERNATIONAL
AUTO SHOW

support
twelve
local
children's
charities

2010 CHARITY PREVIEW

Friday, January 15
6:00 p.m. to 9:00 p.m.
\$250 per person
charitypreview.com
cobo center
detroit

manages its cruise ship business and accounts for more than 80 percent of the parent company's revenue, according to both Scaglione and court pleadings.

In fact, the shipboard art auctions took the gallery from sales of \$20 million-\$22 million in the early 1990s to nearly \$300 million in 2006 and early 2007 — its all-time high, Scaglione said.

But they are now the source of its legal troubles, and Park West has changed some of its business practices as a result.

The growth

Scaglione founded Park West in 1969 after a brief teaching career in mechanical engineering sciences at **Wayne State University**, when research projects he was participating in lost funding from the federal government.

In his early days as a startup owner, he met psychedelic and pop artist Peter Max, and over the years developed other business relationships with the families or estates of deceased "masterwork" artists such as Marc Chagall, M.C. Escher and Pablo Picasso.

Today, Scaglione said, masterworks account for perhaps one-third of one percent of all art sold, but up to 9 percent to 12 percent of all sales revenue for Park West.

The company first sought new revenue streams in international waters in 1993. That began with concession agreements to handle shipboard cruise ship auctions for Miami-based **Royal Caribbean Cruises Ltd.** and subsidiary **Celebrity Cruises**.

Park West went on to acquire **Fine Art Sales Inc.** around 1999 — and with it a concession agreement to sell aboard the **Norwegian Cruise Line** — but built its other concessions on its own. Park West currently hosts auctions for passengers aboard more than 80 ships for Seattle-based **Holland America Inc.** cruises; Celebration, Fla.-based **Disney Cruise Line**; **Carnival Cruises**; Fort Lauderdale, Fla.-based based **Regent Seven Seas Cruises**; and Miami-based **Oceania Cruises Inc.**

Santa Clarita, Calif.-based **Princess Cruises**, another subsidiary of Miami- and London-based **Carnival Corp. & plc**, along with Holland America and Carnival, manages its own shipboard art auctions in house.

Scaglione said the gallery sells 300,000 works of art a year, mostly aboard cruise ships, with each of the hosting cruise companies taking 10 percent to 40 percent of gross revenue. A 15 percent

federal court could be centralized at the U.S. District Court in Seattle, since they share similar allegations of "a fraudulent scheme to sell fake, worthless or low-value artwork at shipboard auctions or in private sales." Seattle is home to **Holland America Inc.**, one of the cruise lines to host Park West auctions and a co-defendant in some of the cases. The lawsuits, in order by filing date, are:

• **Alan Beegal et al v. Park West Galleries Inc. et al**

Filed: November 2001, resumed in June 2007, Burlington County Superior Court, New Jersey
Claim: Beegal is part of a group of buyers who have claimed inflated prices for artwork sold on cruise ships due to alleged Park West bidding practices during the auctions. An order was entered certifying a class action in the case, but that was reversed in 2007.

Status: Motion hearings expected in January 2010. No trial date set.

• **Park West Galleries Inc. vs. Global Fine Art Registry L.L.C., The Salvador Dali Gallery Inc., Theresa Franks and Bruce Hochman; Global Fine Art Registry v. Bernard Ewell, third-party defendant**

Filed: April 11, 2008, Oakland County Circuit Court; moved in May to U.S. District Court, Detroit.
Claim: Park West alleges defamation, tortious interference or intentional conduct damaging lawful contractual and business relationships, interference with prospective business advantage and civil conspiracy against Fine Art Registry. Fine Art Registry also alleges tortious interference and interference with business advantage against Park West, and defamation against third-party defendant Bernard Ewell, a New Mexico-based appraiser who has worked for Park West.

Status: A trial, previously set in October, is currently on hold until an undetermined date in March. Also on the court's "trailing docket" for February if other cases can be resolved or dismissed first.

• **David Bouverat v. Park West Galleries Inc., Park West at Sea**

Filed: June 20, 2008, U.S. District Court for the Southern District of Florida.
Claim: Bouverat of Florida seeks a class action and alleges violations of the Florida Deceptive and Unfair Trade Practices Act, breach of contract and unjust enrichment. Bouverat purchased art from Park West aboard a Celebrity Cruise Line in June 2007. Damages sought exceed \$15,000.

Status: Transferred in August 2009 to the U.S. District Court in Seattle, to be combined with the Rodney Blackman/Myra Kean case detailed next.

• **Rodney Blackman and Myra Kean v. Park West Galleries Inc., Fine Art Sales, Holland America Line Inc., HSBC Finance Corp. and Does 1-10**

Filed: Sept. 2, 2008, U.S. District Court, Seattle.
Claim: Blackman of Chicago and Kean of Kentucky seek a class action certification and allege fraudulent concealment, violations of the federal Racketeer Influence and Corrupt Organizations Act, breach of contract and unjust enrichment. Blackman purchased art from Park West aboard a Holland America cruise ship in 2003, and Kean purchased art from Park West auctions aboard a Royal Caribbean ship in 2007. By order of the federal Judicial Panel on Multidistrict Litigation, the Seattle court will hear this case along with at least two and possibly four federal cases in Michigan plus one in Florida. **Status:** Awaits oral argument on pending pretrial motions Dec. 2, and a Jan. 15

Going Green? 

HONIGMAN & CRAIN
DETROIT BUSINESS
Survey

Best Lawyers
THE WORLD'S PREMIER GUIDE

United States

Michigan

Select a specialty

Select a firm

Select a city

SEARCH

Best Lawyers sponsored by:

BUTZEL LONG
ATTORNEYS AND COUNSELORS
www.butzel.com

premium above the auction hammer price goes to **Plymouth Auctioneering Ltd.**, which is based in the Turks and Caicos Islands, and has trained and employed Park West's shipboard auctioneers as independent contractors for about 13 years.

The lawsuits contend that the cruise auctioneers are "either employed directly or indirectly by Park West, or Scaglione, or are under Park West's control."

Vice President Chris Tennyson of New York-based **Fleishman Hillard Inc.**, and a spokesman for Park West, said that Plymouth is "a consortium of individuals from Scotland and England" who are versed in human resources and auctioneer compensation. Park West contracted with the company because it needed a company more versed in hiring a multinational workforce for auctions.

Neither Scaglione, his family members nor Park West management own an interest in the company, he said.

Lawsuits from art buyers began accumulating in 2007 and early 2008.

The company is now a defendant in six federal lawsuits seeking class-action status and more than \$20 million in damages, as well as two state lawsuits claiming fraud, consumer protection act violations and other allegations in Michigan and New Jersey.

It is also the plaintiff in its own lawsuit against Fine Art Registry for damages above \$75,000 for defamation and intentional interference with lawful business practices, based largely on Franks' Web site publications.

Rodger Young, founding partner at **Young & Susser P.C.** in Southfield and lead counsel for Park West in all the cases, said all the buyer lawsuits "are derivative or spun by Fine Art Registry" and its publications, and if the company can win the defamation case it will be "highly relevant" in deciding an outcome for all the others.

The accusations

Franks, of Fine Art Registry, has operated and sold an online art registration system for buyers and dealers for more than seven years. She began publishing consumer advocacy articles about allegations against Park West through her company's Web site in mid-2007 after reading a local newspaper's coverage of four buyers who claimed the gallery misrepresented the value of a Salvador Dali print they bought.

Her company began researching the matter and contacted some buyers

deadline to join new parties and additional pleadings. Trial currently set for May 2, 2011.

• **Albert and Vivian Best, Sharon Day et al v. Park West Galleries Inc., Royal Caribbean Cruises Ltd., Albert Scaglione and Morris Shapiro**

Filed: Dec. 23, 2008, Oakland County Circuit Court
Claim: The Bests, Day and seven other buyer plaintiffs allege violations of Michigan's fine art statute and the Michigan Consumer Protection Act, along with fraud, breach of contract, negligent misrepresentation and violations of a state law on multiple art sales. Most of the plaintiffs bought artwork aboard cruise ships between 2003 and late 2007, although Albert Best made a local art purchase in 1973 and Day and her husband purchased a collection of Dali works after a cruise in 2008.

Status: Awaits pretrial motion hearing Dec. 2; tentative trial date Feb. 22.

• **Joseph Bohm and John Lee v. Park West Galleries Inc., PWG Florida, Vista Fine Art Sales L.L.C. d/b/a Park West at Sea, Albert Scaglione and John Does 1-100**

Filed: April 13, 2009, U.S. District Court, Detroit.
Claim: Bohm and Lee of New York state seek a class action and allege violations of the federal Racketeer Influence and Corrupt Organizations Act, the Michigan Consumer Protection Act, state statutes on fine art sales along with breach of contract and unjust enrichment. Bohm and Lee "jointly" purchased art at Park West auctions aboard Celebrity Cruise Line and Carnival Cruise line ships in 2002 and 2004.

Status: Transferred in September to U.S. District Court in Seattle, to be combined with the Rodney Blackman/Myra Kean case.

• **Bruce and Patricia Alleman v. Park West Galleries Inc., PWG Florida, Vista Fine Art Sales L.L.C. d/b/a Park West at Sea, Albert Scaglione, Royal Caribbean Cruises Ltd. and John Does 1-100.**

Filed: July 22, 2009, U.S. District Court, Detroit.
Claim: The Allemans of Illinois seek a class action and allege violations of the federal Racketeer Influence and Corrupt Organizations Act, the Michigan Consumer Protection Act, state statutes on fine art sales along with breach of contract and unjust enrichment. The Allemans purchased art from a Park West auction aboard the Royal Caribbean ship The Enchantment of the Seas in 2005.

Status: A Nov. 23 conference to discuss settlement and jurisdiction was delayed; the judge placed a motion to dismiss Royal Caribbean from the case on hold. A decision on whether the case would be transferred to the Seattle court could come by year's end.

• **Sean Mullen v. Park West Galleries Inc., PWG Florida, Vista Fine Art Sales L.L.C. d/b/a Park West at Sea, Royal Caribbean Cruises Ltd., Albert Scaglione, Holland America Line N.V., Carnival Corp. & plc, and John Does 1-100**

Filed: July 24, 2009, U.S. District Court, Detroit.
Claim: Mullen of Washington, D.C., seeks a class action certification and alleges violations of the federal Racketeer Influence and Corrupt Organizations Act, the Michigan Consumer Protection Act, state statutes on fine art sales along with breach of contract and unjust enrichment. Mullen purchased art from Park West aboard Royal Caribbean ship Serenade in 2003 and Holland America ship Zuiderdam in 2005.

Status: Awaits a Jan. 27 hearing on a motion to dismiss the claims against Royal Caribbean, which

directly. After the first reports on her site, new complaints began to mount. To date, she said, the registry has collected more than 350 buyer accusations and has published more than two dozen online articles about Park West practices. Nearly 20 of the buyers quoted or named in the registry's articles are now plaintiffs in the various Park West lawsuits.

"After getting the first complaint, I remember I thought that this can't really be happening," she said. "There were people investing their own personal savings into these works, and then coming home from the boat to find out they wouldn't be able to sell them for even a fraction of what they paid."

Franks and attorneys in the lawsuit contend Park West waits to enter international waters, which could provide "a legal cloak (against) consumer protection laws," and targets auction buyers who usually have little experience with fine art or access to shore by phone or e-mail to verify auctioneers' claims about value.

"Prints of fine art are usually made at the request of, or with authorization of, the artist, using engravings or woodcuts and very traditional forms of reproduction, in limited editions," said Don Payton, partner at Farmington Hills-based **Kaufman Payton & Chapa P.C.**, who is defending Fine Art Registry in Park West's suit and represents 10 buyers in a prospective class-action lawsuit filed last year at **Oakland County Circuit Court**.

"But in some of these prints that Park West has sold, on examination you see dots or other indications it's actually a (mass media) print."

Sharon Day of London, a plaintiff in the Oakland County case, told *Crain's* she and her husband, Julian Howard, bought a complete set of Dali's "Divine Comedy" woodcut prints from Park West for more than \$517,000 in early 2008, some time after attending an auction aboard Royal Caribbean's Legend of the Seas.

Later, when the family was considering a move from England to the U.S. and needed to sell the artwork to help with a down payment on a home, she asked Park West for a refund, which gallery director Morris Shapiro declined to provide. The family then began to do some research and became skeptical of its authenticity.

Gary Metzner, senior vice president of fine arts at **Sotheby's** offices in Chicago, confirmed to *Crain's* that he sent an e-mail to inform Day and Howard that its auction house has sold the same set of Dali "Divine Comedy" prints in multiple transactions for between \$60,000 and \$80,000.

"We were not sophisticated art buyers at all, but (we were) interested in the set of prints. And we had met them aboard a Royal Caribbean vessel, a very reputable company, and assumed (Park West) to be equally reputable," Day said. "I had a sick feeling in my stomach when we found out what they'd done to us. I have a stack of artwork that experts have now told us is (comparatively) worthless."

Another plaintiff, Albert Best of Farmington Hills, alleges Park West sold him what he understood to be two limited edition lithographs by surrealist-expressionist Chagall, which he later learned "were in actuality not Chagall lithographs, but ... merely images removed from an art magazine," according to the Oakland lawsuit.

Young, as Park West's attorney, believes the accounts of Best and other plaintiffs will not stand up in court.

"We completely disagree with that version of the facts and will show that all of the work (Park West) has sold has established provenance," he said. Fine Art Registry is providing a wellspring for what we will prove at trial to be disgruntled and misguided accusations."

In an e-mail, Robin Danek, director of marketing communication for Park West, said Best paid \$55 and \$65 for two framed lithographs.

"Both of the lithographs are authentic. ... Works identical to the ones purchased by Mr. Best are sold throughout the world, are desirable and currently fetch prices into the thousands."

is already dismissed in the Seattle case. Also conditionally transferred in September to the U.S. District Court in Seattle, to be combined with the Rodney Blackman/Myra Kean case.

• **Donald and Joyce Hatter v. Park West Galleries Inc., PWG Florida, Vista Fine Art Sales L.L.C. d/b/a Park West at Sea, Carnival Corp. & plc, Albert Scaglione and John Does 1-100**

Filed: July 29, 2009, U.S. District Court, Detroit.

Claim: The Hatters of New Jersey seek a class action and allege violations of the federal Racketeer Influence and Corrupt Organizations Act, the Michigan Consumer Protection Act, state statutes on fine art sales along with breach of contract. The Hatters purchased art from Park West aboard Carnival ships Triumph and Paradise in 1999 and 2001.

Status: Transferred in September to the U.S. District Court in Seattle, to be combined with the Rodney Blackman/Myra Kean case.

Robert English of Rio Rancho, N.M., is not a plaintiff but said he is looking for an attorney who will take his case after he and then-wife Debra English contributed nearly half of the balance in her 401(k) account to buy a set of four works by Peter Max in 2006.

They paid around \$12,000 for the works during a cruise aboard the Carnival ship Miracle, partly in the hopes they could leave an investment to their children. Based on some research nearly a year later, he said, the pieces they bought appear to be worth \$500-\$750 apiece, or \$2,000-\$3,000 as a set.

"They keep the champagne flowing, and everybody's having a good time during these auctions, and they make you promises like that sure you can get an appraisal done on the pieces, but you have to go through a person for the appraisal who works on a contract for them," he said.

The Oakland County buyers' lawsuit is expected to go to trial in February. A pretrial motion hearing is set for Wednesday.

Park West's defamation case against Fine Art Registry had been scheduled to begin last month, but was delayed until March before U.S. District Judge Lawrence Zatkoff.

Four other federal lawsuits were filed at **U.S. District Court** in Detroit between April and July, seeking to certify a class action of buyers co-represented by **The Miller Law Firm P.C.** of Rochester. Two of those cases were transferred in September and two more may follow after some upcoming motion dates to combine with a 2008 federal lawsuit against Park West in Seattle, where Holland America is based.

The Seattle case is set for trial in 2011, and none of those buyer cases has yet been certified as a class action.

Scaglione said he is confident of winning all nine cases and says it seems none of Fine Art Registry's reports to expose misdeeds in the "art industry" target anyone but Park West.

He also said Franks' company sent Park West a mass-mailer nearly three years ago offering to sell the dealer its registry services, which his gallery declined to pursue.

Franks denied that her Web site's articles about Park West have anything to do with the dealer ignoring her company's pitch for services. She said her company's sales are less than \$500,000 per year and she is mismatched in the litigation.

"My company is a case of David against Goliath," she said.

The fallout

A majority of the buyer complaints to surface against Park West in the past 18 months involve the work of masters such as Dali, but a few also involve Peter Max, Thomas Kinkadee or other living artists.

Scaglione estimates cruise ship auctions account for 80 percent or more of revenue companywide, but the masterworks account for at most 1,000 of the 300,000 pieces the company sells per year. The lawsuit allegations are a drop in the bucket of even those limited masterwork transactions, he said.

In September 2008, Park West departed from its previous formal policy that all sales were final in favor of a new policy allowing buyers 40 days to return an item for a refund less a maximum of \$1,000 out of the 15 percent buyer premium. It also allows up to 40 months for a buyer to exchange a work of art for another piece of comparable worth.

To date, the company has given refunds or exchanges on more than 200 sales. But Scaglione contends Park West has never sold a "non-authentic" work of art since its opening 40 years ago.

The company has cut its workforce from 350 three years ago to 250 today, including 25 percent to 30 percent of its 170 employees in Michigan during its peak revenue years. Scaglione said much of the cutting occurred in its shipping, customer service and research departments.

But he has since added a marketing and public relations department, legal staff and a Web desk to help build the company's online presence and defend its reputation online, he said. He said the lowest point of the downturn was the first few months of 2009, and business has shown limited signs of improvement since then. He is optimistic the outlook will continue to improve in 2010, particularly after some of the lawsuits are resolved.

"We are in less of a defensive position than we were six to eight months ago," he said. "It has changed how we do things, because when this all began we didn't do as much with the Web, and we had to become much more proactive about it. It used to be that the first few screens of hits on a Web search for us were these articles in the smear campaign, and that's changed."

Scaglione denies misrepresenting the value of art Park West has sold, and said if it were truly overpriced, it would not find a buyer.

"In a market where we are the largest seller, and we are sometimes selling nearly all of several thousand prints in a series from a piece, you can ask what is its value?" he said. "The value is whatever price the seller can find a buyer that will pay for it."

Chad Halcom: (313) 446-6796, chalcom@crain.com

You must be logged in to leave a comment. [Login](#) | [Register](#)

Submit

You may also like

- [Richardo Kilpatrick](#)
- [Battle of degrees heats up: Universities, community colleges spar over four-year programs](#)
- [William Chaklos](#)
- [WEEK ON THE WEB: NextWind project for Zug Island passed for grant](#)
- [This Week's Issue](#)
- [Susan Sadler](#)
- [Breaking Detroit News](#)

[Home](#) | [Advertising](#) | [Classifieds](#) | [About Us](#) | [Latest News](#) | [Subscribe](#) | [Contact Crain's](#)

© 2009 Crain Communications Inc.

Use of editorial content without permission is strictly prohibited. All rights Reserved

[Privacy Statement](#) | [Disclaimer](#)