

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

KIT-YIN SNYDER AND RICHARD HAAS,

Plaintiffs,

Case No. 1:22-cv-03873

v.

**DECLARATION OF RICHARD
HAAS IN SUPPORT**

ERIC ADAMS, Mayor of the City of New York, in his official capacity, **THE CITY OF NEW YORK, NEW YORK CITY DEPARTMENT OF DESIGN AND CONSTRUCTION, NEW YORK CITY DEPARTMENT OF CULTURAL AFFAIRS, NEW YORK CITY DEPARTMENT OF CORRECTION, NEW YORK CITY PUBLIC DESIGN COMMISSION**

Defendants.

I, RICHARD HAAS, declare under penalty of perjury that:

1. I am a Plaintiff in the above-referenced action. This declaration is based upon my personal knowledge. If called to testify, I could and would testify competently to the facts contained herein.

2. I respectfully submit this Declaration in support of Plaintiff's motion, brought by order to show cause, for a temporary restraining order ("TRO") and a preliminary injunction enjoining Defendants Mayor Eric Adams, the City of New York, New York City Department of Design and Construction, New York City Department of Cultural Affairs, New York City Department of Correction and New York City Public Design Commission ("Defendants") from taking any actions to destroy, distort, mutilate and/or modify the long-standing works of visual art (the "Artwork") installed by myself and my co-Plaintiff, Kit-Yin Snyder, (collectively,

“Plaintiffs”) located at or around the Manhattan Detention Center, 124-125 White Street, New York, New York (the “MDC”) in violation of 17 U.S.C. § 106A (the “Visual Artists Rights Act”) and copyright law.

INTRODUCTION

3. I am an artist. I am best known for my monumental architectural murals and use of the trompe l’oeil style, which is a technique that uses realistic images in a way that causes one to perceive the painting in three dimensions. I have painted over a hundred outdoor and indoor, works of public art that incorporate trompe l’oeil technique to depict architectural features of buildings.

4. I first began painting large scale murals on the exterior walls of buildings while living in SoHo in the mid-1970s as a response to the large-scale construction and urban renewal initiatives that were drastically changing the city. My first mural, the “SoHo Mural,” is a trompe l’oeil extension of the cast-iron front façade of 112 Prince Street and is located on the brick wall of the six-story building.

5. Since the creation of the mural on 112 Prince Street in 1974, I have produced a number of artistically significant murals that have become distinct features within New York City, as well as in other cities throughout the country and internationally.

6. Tragically, after nearly fifty years of devoting myself to this artform, more than half of my murals have been destroyed intentionally by developers or by failure to maintain the work.

7. The newest threat, and the subject of this lawsuit, is the City’s intent to remove and destroy my artwork, known as “Immigration on the Lower East Side of New York,” at the

MDC on the Lower East Side of Manhattan, adjacent to Chinatown, in order to replace the MDC with yet another jail as part of the Borough Based Jail project.

8. This act is particularly painful because the City commissioned me to install the artwork “Immigration on the Lower East Side of New York,” as well as four sculptural friezes, “The Judgements of Solomon and Pao Kung,” in collaboration with Plaintiff Kit-Yin Snyder. The commission was to comply with the City’s Percent for Art Law, which requires that that one percent of the budget for eligible City-funded construction projects be spent on public artwork.

9. My selection as an artist was apropos as my art is centered on creating something meaningful within communities gutted by drastic and unsympathetic changes of the built environment and by urban renewal. Furthermore, “Immigration on the Lower East Side of New York” was meant to be a tribute to the many immigrant communities living and working and contributing to the fabric of the Lower East Side, which the construction of the MDC displaced and disrupted.

10. I had a heightened expectation that my artwork, and my moral rights to the art and my reputation would be honored and respected by the City.

11. This turns out to not be the case. The City should not be permitted to continue its pattern of abuse and disregard of my work and that of and other artists’ work and ignore the interests of the community.

THE ARTWORK

12. The Manhattan Detention Complex consists of two buildings designated the North and South Towers, connected by a bridge. The South Tower, formerly the Manhattan House of Detention, or the “Tombs,” was opened in 1983. The North Tower was opened in 1990.

13. In 1985, the New York City Percent for Art Fund awarded Ms. Snyder and me the contract to design and install site-specific public artwork for the Manhattan Detention Complex North Tower Project (the “Artwork”). A copy of the contract between Plaintiffs and Urbahn & Litchfield Grosfeld, a Joint Venture, on behalf of the City, dated July 2, 1987, is annexed hereto as **Exhibit A**.

14. My contribution to the collaboration included four sculptural friezes entitled “The Judgements of Solomon and Pao Kung,” and a seven-panel mural entitled “Immigration on the Lower East Side of New York.”

15. I created the Artwork as an independent contractor and not as an agent or employee of the City. I was not supervised by any employee of the City nor did I exercise supervision over any employee or official of the City. *See Exhibit A*, at Art. 8.

16. The friezes, depicted below, are entitled “The Judgements of Solomon and Pao Kung.” The friezes are mounted on a bridge above a pedestrian plaza on White Street that connects Baxter and Centre Street. They illustrate the legendary tales of King Solomon, an Israeli King, and Pao Kung, a Sung Dynasty Chinese Judge, which express the same concept while coming from different cultures. The artwork is a dedication to , the Chinese and Jewish people living in the Lower East Side where the MDC is located, and the surrounding judicial institutions, as well as the MDC.



MEDALLION #1 (SOLOMON)



MEDALLION #2 (PAO KUNG)

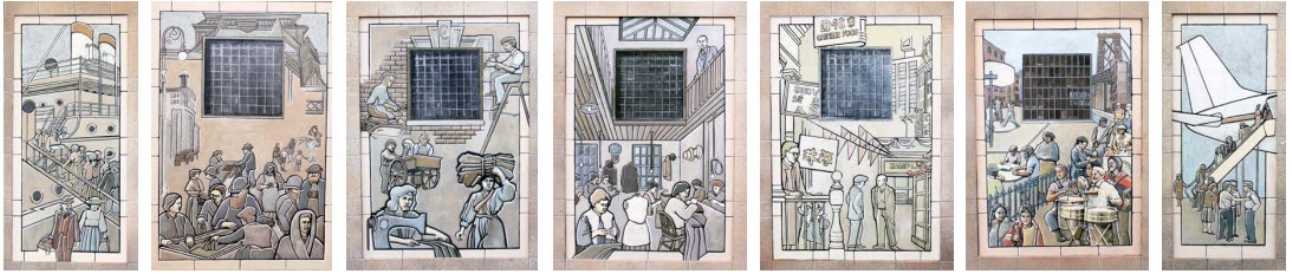


MEDALLION #3 (SOLOMON)



MEDALLION #4 (PAO KUNG)

17. The mural which consists of 7 panels, entitled “Immigration on the Lower East Side of New York,” is located on the Baxter Street side of the North Tower of the MDC. It is painted directly on the second story cement wall of the MDC with a German silicate paint called Keim . The style of the painting is intended to look as if the panels are actually tiled artworks. The panels show evolving waves of immigrants, beginning with individuals arriving on steamboats and ending with immigrants descending from an airplane. The middle panels illustrate a range of different activities of the newly arrived people, effectively a “melting pot” of immigrant communities of the Lower East Side.



18. “Immigration on the Lower East Side of New York,” traces the history of successive waves of immigration in the 19th and 20th century to the Lower East Side and Chinatown. The work shows the variety and progress of various groups of immigrants to New York City, focusing on their everyday struggles. With the work, I intended to illustrate overlapping cultures, at a site adjacent to where immigrants settled in the Lower East Side. Several immigrant cultures are represented on the works, many with common ties, among them, Jewish, Hispanic, Chinese, and Italian.



19. The original design for the sixth panel of “Immigration on the Lower East Side of New York,” intended to represent the Hispanic immigrant culture in the neighboring areas near the MDC, came under controversy in 1992, and I repainted the panel, completing the Artwork in 1997.



PANEL 6 ORIGINAL DESIGN 1992



PANEL 6 REVISED DESIGN 1997

20. I have never executed or signed any written instrument specifying that installation of any portion of the Artwork may subject any of those works of visual art to destruction, distortion, mutilation, or other modification, by reason of its removal.

21. Title to the Artwork was transferred to the City of New York after its completion and final payment by the City, which occurred no earlier than 1992, but the project was extended under a second agreement when I repainted one panel of the original six-panel art work in 1997. *See Exhibit A*, at §§ 1.9, 2.1.

22. This Artwork is a work of recognized stature. The Artwork is viewed as meritorious and is recognized by art experts and other members of the artistic community, as well as receiving an award from the Art Commission for Excellence in Design in 1988. The artwork depicts a history of the immigrants who have inhabited the Lower East Side and Chinatown and are of heightened significance and value because of their geographical placement.

MY BACKGROUND

23. I have had had a long and successful art career in both the public and private sector. My artistic studio, where all my work is done and my archives are stored, has been in New York City since 1968. I first began painting large-scale murals on exterior party walls while living in the City's SoHo neighborhood in the mid-1970s. This was in response to the widespread construction and destruction of the fabric of the City along with urban renewal initiatives that were drastically changing the city's landscape.

24. My influence in public art can be seen throughout the United States on the walls in the public and private spaces of most major cities. My public works include the Oregon Historical Society in Portland, the periodical room in the main branch of the New York Public Library, the Robert C. Byrd Federal Building and Courthouse complex in Beckley, West Virginia, several large outdoor murals in downtown Fort Worth, among them the "cattle stampede" which is the center piece of downtown Fort Worth, the Federal Courthouse in Sarasota, Florida, and another half a dozen other works in that state. Along with exhibiting extensively in the United States, I have also shown my work abroad in Germany, France and Japan. To date, I have created fifty-three exterior, trompe l'oeil murals throughout the United States and Germany and an equal number of interior projects.

25. My artworks serve as significant markers of memory and history within the urban landscape. My murals strive to mend the visual ailments and aesthetic challenges of urban environments and have addressed cultural, political, and social issues.

26. I have obtained many awards, grants, and commissions, including the Doris C. Freedman Award, an N.E.A. grant, a Guggenheim Fellowship, and the American Institute of Architects Medal of Honor. A copy of my resume is annexed hereto as **Exhibit B**. My work

and accomplishments have been the topic of national news coverage and I have often been recognized by the art community.

27. “Immigration on the Lower East Side of New York” and “The Judgements of Solomon and Pao Kung” remain some of my most significant art work and I believe should be preserved due to their cultural significance and value to the community.

THE REMOVAL AND DESTRUCTION

28. In October 2019, the New York City Council approved a controversial plan to replace the MDC with a new facility as part of the Borough Based Jail (“BBJ”) Project. The project calls for the construction of four new detention facilities in the Bronx, Brooklyn, Manhattan, and Queens.

29. In Manhattan, the BBJ Project is demolishing the MDC and replace it with a new Manhattan Detention Facility (the “New Facility”).

30. As part of the City’s BBJ Project, DCA, DDC and DOC have advanced a removal plan (the “Removal Plan”) for the Artwork, which the New York City Public Design Commission (“PDC”) has approved.

31. However, the Artwork has been incorporated in and made part of the pedestrian plaza, pedestrian bridge and 124 White Street in such a way that removing it, or any part thereof, would cause its destruction, distortion, mutilation or modification.

32. I have been informed that the removal of the Artwork is scheduled to commence in May 2022.

33. The Removal Plan treats each portion of the Artwork as a separate piece of art and makes no provision for reuniting the different pieces of the Artwork at a later date.

34. The Removal Plan will completely destroy my painted mural.

35. Specifically, the Removal Plan states that one of Ms. Snyder's pieces, "Upright," and my mural, "Immigration on the Lower East Side," cannot be salvaged.

36. This is a direct violation of the representation, assurance, and agreement made to me prior to installing the Artwork, that the City would "not intentionally destroy, damage, alter, modify or change the Art Work in any way...." See **Exhibit A**, at § 7.4.

37. The Removal Plan proposes to: (1) document the existing installation of the Artwork; (2) store representative samples of the original materials for reference; and (3) recreate the Artwork in new materials, at the New Facility "or at an alternative site, in consultation with artist" [*sic*]. Copies of the Removal Plan posted to PDC's website in connection with the February 2022 PDC hearing and the April 2022 PDC hearing are annexed hereto as **Exhibit C** and **Exhibit D**, respectively. To date, no permanent "alternative site" has been proposed to me.

38. Pursuant to the Removal Plan, "Immigration on the Lower East Side of New York" will be destroyed. After the Manhattan Detention Complex is demolished, nothing will remain of the Artwork except photos taken of the Artwork as part of the documentation process proposed by the Removal Plan.

39. The reproduction of the Artwork as contemplated by the Removal Plan is vague and provides no substantive plan for meaningful collaboration with me.

40. As to the other portions of the Artwork, the Removal Plan proposes storing the Artwork for an unstated period of time and later reinstalling the salvaged portion of the Artwork at the New Facility "or at an alternative site, in consultation with artist." Like the works deemed non-salvageable under the Removal Plan, there is no concrete plan in place for consultation with Ms. Snyder or myself, or any future plan to display these "salvageable" works.

41. I have not been offered an alternative site for the reinstallation of the salvaged Artwork. The City has failed to provide any type of commitment to me to preserve or reinstall artwork.

42. The Removal Plan contains no promised date for reinstallation of the salvaged Artwork after storage.

43. From December 2021 through February 2022, the DCA, DDC and DOC sought preliminary review of the Removal Plan from the PDC. Public PDC hearings on the Removal Plan were held on February 14, 2022 and April 11, 2022.

44. At the February 14, 2022 PDC hearing, the PDC discussed that reinstallation of the art works will be considered at an alternative site, however, the DCA, DDC and DOC representatives presenting the Removal Plan were unable to provide any proposals for any alternative site and admitted that while other locations in Chinatown are being researched, no location has been chosen. Moreover, while acknowledging that the Removal Plan “cannot work without the artists being part of the process,” the representatives proposed that other alternative locations for the Artwork will be considered after the destruction of the Artwork has already commenced.

45. When the Removal Plan was again presented to the PDC on April 11, 2022, the DCA, DDC and DOC representatives presenting the plan still could not provide a definitive plan for reinstallation or reproductions of the Artwork.

46. The Removal Plan as presented at the April PDC hearing continued to present vague promises of “reinstallation or reproductions” of the Artwork without setting forth any additional concrete proposals to ensure consultation with the artists during their respective lifespans.

47. On April 11, 2022, the PDC unanimously approved the Removal Plan. One member's approval of the plan included compliments that the Removal Plan included consultation with Ms. Snyder and me, despite there being no commitment to reinstall the Artworks by a specific time or at a specific location.

48. I have never executed or signed a written instrument after June 1, 1991 (the effective date of the Visual Artists Rights Act), with any Defendant that specifies that installation of the work may subject the work to destruction, distortion, mutilation, or other modification, by reason of its removal from 124 White Street.

URGENT NEED FOR PROTECTION

49. I understand that the City's demolition contractor intends to remove the Artwork in May 2022.

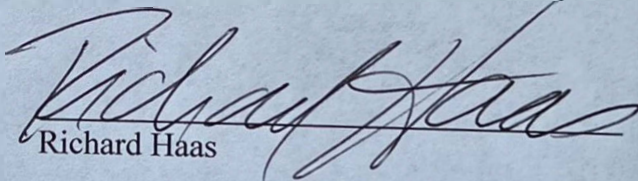
50. Accordingly, the removal of the Artwork is imminent and could commence as early as this week.

51. If this relief is not granted, I will be irreparably harmed, as the Artwork will be ruined and unsalvageable if the City and the demolition contractor are permitted to destroy my Artwork.

52. No prior application has been made for the requested relief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 11th day of May 2022


Richard Haas