

**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 KIT-YIN
SNYDER 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, KIT-YIN SNYDER, 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 Plaintiffs' 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" or the "City"), New York City Department of Design and Construction (DDC), New York City Department of Cultural Affairs ("DCA", New York City Department of Correction and New York City Public Design Commission ("DOC") (together, "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, Richard Haas, (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 environmental art practice and I have exhibited my work at sites in both the United States and abroad.

4. My profession as an artist started in the 1970s in the area of ceramics. For several decades, I produced environmental sculptures, some of which are exhibited in New York area sites such as P.S. 1, Artpark, Snug Harbor, and in public spaces such as Bryant Park. In the late 1990s, I began working with the medium of video, which allowed me to add yet another 4th dimension to my artwork and the ability to combine visual imagery with story-telling.

5. During the course of my profession as an artist, I have produced a number of renowned culturally and environmentally relevant artworks, and my work and accomplishments have been the topic of news coverage and recognition by the art community.

6. One of my most treasured works, and the subject of this lawsuit, “Justice,” which is located at the MDC on the Lower East Side of Manhattan, neighboring Chinatown, is currently threatened by the City’s intent to remove and destroy the artwork, in order to replace the MDC with yet another jail as part of the Borough Based Jail project.

7. This act is painful because the City commissioned me to install “Justice,” in collaboration with Plaintiff Richard Haas, to comply with the City’s Percent for Art Law, which requires that one percent of the budget for eligible City-funded construction projects be spent on public artwork.

8. My installation at the MDC, “Justice,” was made specifically for and was dedicated to the community. It is meant to be a symbol of justice, given its location adjacent to incarcerated individuals as well as the many immigrant communities living in and contributing to the Lower East Side, which the construction of the MDC had displaced and disrupted.

9. 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, especially since the City had specifically commissioned the piece and my art is so personal to this particular space and community.

10. I am disappointed that I was wrong in trusting that the City would treat the Percent for Art law as something to be protected and not just for appearances, and that I have no choice but to call on the judiciary to safeguard and preserve my and other artists’ work and the interests of the community.

THE ARTWORK

11. The MDC 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.

12. In 1985, the New York City Percent for Art Fund awarded Mr. Haas and me the contract to design and install public artwork for the MDC North Tower Project. 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**.

13. My contribution to the collaboration was entitled “Justice” (also sometimes known as “Judgment”), and included a sculpture on the roof of the bridge, entitled “Solomon’s Throne;” a paving pattern on White Street, entitled “Upright;” seven freestanding column

sculptures on the terrace and sidewalk, entitled “The Seven Columns of the Temple of Wisdom;” and two rows of apple trees bordering White Street.

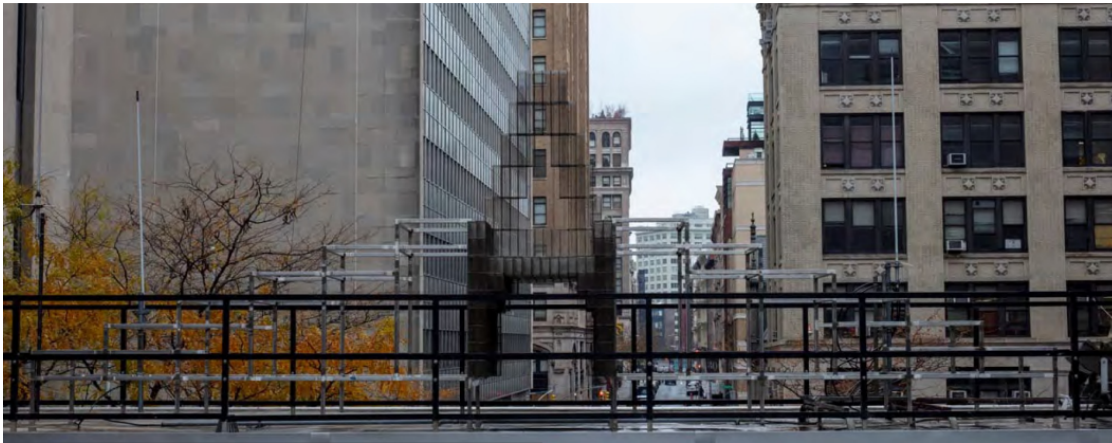
14. I created the Artwork as an independent contractor and not as an agent or employee of the City. I was not supervised by any employee of the City nor did I exercise supervision over any employee or official of the City. See **Exhibit A**, at Art. 8.

15. The design of the sculptural aspect of the work suggests a portico symbolizing civic justice, while the paving pattern includes Chinese characters for “upright” and “righteousness.” The work conveys a desire of justice for all those being detained in the MDC.

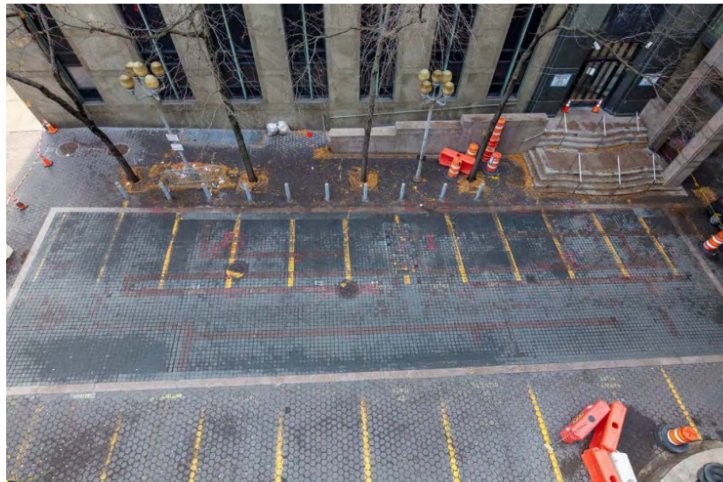
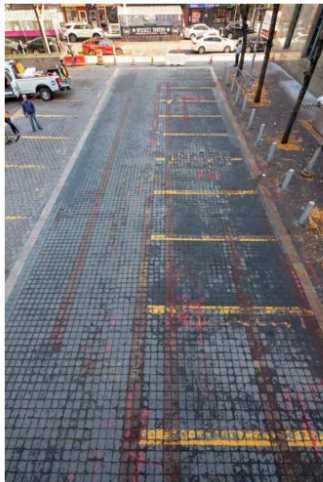


16. The central focus of “Solomon’s Throne” is the throne of the Old Testament judge, King Solomon, whose name means “peaceable.” There are six symbolic steps leading up to the throne to form a pediment along the top of the bridge – the metaphorical “throne of justice” to link together the North and South towers of the MDC physically and symbolically.

This creates a metaphorical “Bridge of Sighs” that is placed above the passageway leading from the detention center to the court.

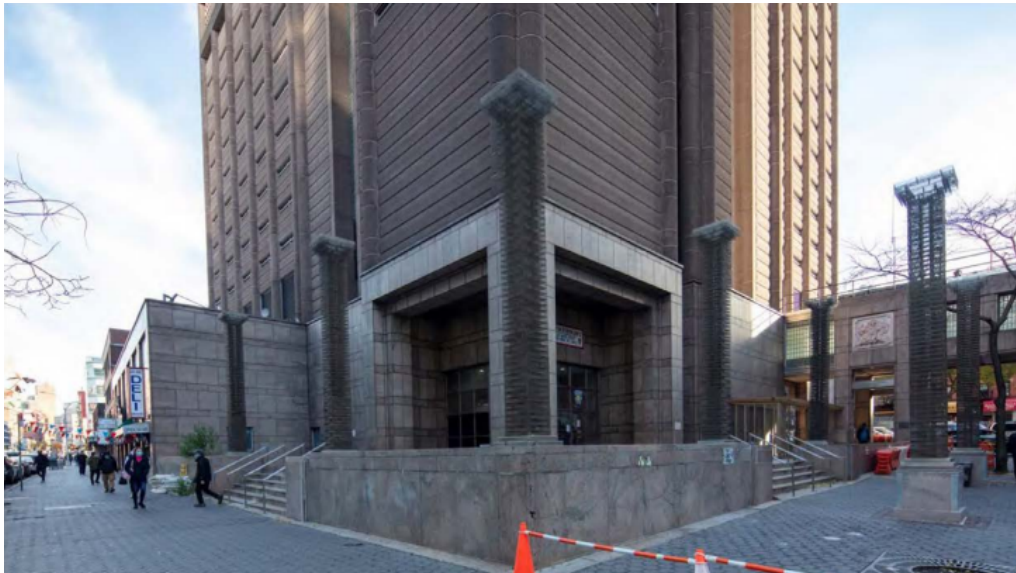


17. “Upright” is a geometric labyrinth of colored pavers, including pictograms of two Chinese characters meaning “upright” and “righteousness,” interspersed amongst two rows of apple trees, bordering White Street. The apple trees were an integral part of my overall original design, however, the City recently removed the trees.





18. “The Seven Columns of the Temple of Wisdom”, consist of a pair of columns leading to the gate (the bridge between the North and South towers of the MDC), appropriate for a hall of justice, as well as five additional columns at the administrative entrance. The seven columns represent the Seven Pillars of Wisdom in the Temple of Solomon, suggesting a portico symbolizing civic justice.





19. 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.

20. The design of the Artwork in the public plaza outside of the MDC was a collaboration between Mr. Haas and myself.

21. Title of the Artwork 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 further extended when Mr. Haas repainted one panel of the original six-panel mural installation of his work “Immigration on the Lower East Side of New York” in 1997. *See Exhibit A*, at §§ 1.9, 2.1.

22. The 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, and was awarded the Art Commission Award for Excellence in Design in 1988. The artwork depicts

the history of the cultures that have inhabited the Lower East Side and the Chinatown area and are of heightened significance and value because of their geographical placement.

MY BACKGROUND

23. I was born in Guangzhou, China and I immigrated to the United States at age 15 when I moved to Chinatown, where I lived before settling further uptown. Since then, I have lived in New York, New York for my entire life.

24. I have had a long and successful career in both the public and the private sectors of artistic achievement. My artistic home where my work has been created and my archives are stored has always been in New York, New York. My profession as an artist began in the 1970s when I started in the area of ceramics. For several decades, I produced environmental sculptures and my environmental art practice is what I am best known for in the art community. In the late 1990s, I began working with the medium of video, which allowed me to add yet another 4th dimension to my artwork and the ability to combine visual imagery with story-telling.

25. My influence in public art can be seen throughout the United States and abroad. Some of my environmental sculptures are exhibited in New York area sites such as P.S. 1, Artpark, Snug Harbor, and in public spaces such as Bryant Park. My large-scale steel sculpture in Margaret Mitchel Square, in Atlanta, Georgia currently provides a space for visitors. My filmmaking is also on display in Atlanta, where visitors to Margaret Michael Square can view, “Double Exposure,” which explores my identity as a Chinese American and for which I have achieved recognition.

26. I have received numerous awards, including a Certificate of Merit in Recognition of Outstanding Achievement in the Arts from the New York City Office of the Council President, Andrew Stein, in 1993, and a Bessie Award in 1986. I have also received numerous

grants for my work in environmental sculpture, from organizations including the National Endowment for the Arts and the New York Foundation of Arts and the New York State Council of Art. A copy of a list of my awards and grants is annexed hereto as **Exhibit B**. My work and accomplishments have been the topic of news coverage and recognition by the art community.

27. Still, “Justice” remains one of my most prided works. It was my opportunity to give back to the community to which I first moved when I immigrated to the United States from China, and to memorialize the plight of so many of other immigrants in the Chinatown 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 at 124-125 White Street in such a way that removing it, or any part thereof, from the public plaza would cause its destruction, distortion, mutilation or modification.

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

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

34. Even worse, the Removal Plan will completely destroy two portions of the Artwork.

35. Specifically, the Removal Plan contemplates that my piece, “Upright,” and Mr. Haas’ mural panels, “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 “alternative site” has been proposed to me.

38. Pursuant to the Removal Plan, “Upright” will be destroyed. The Removal Plan proposes the destruction of the original materials of the work, and accounts only for documentation and reproduction of the Artwork. After the MDC 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 real plan for meaningful “consultation” with me.

40. With the other portions of the Artwork, the Removal Plan contemplates storing the Artwork for an unstated period of time on Riker's Island 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 Mr. Haas or myself, or any future display and public enjoyment of these "salvageable" works.

41. I have not agreed to an alternative site for the reinstallation of the salvaged Artwork. Despite discussions, the City has failed to provide any type of commitment to me to preserve or reinstall my 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 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 an 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. This vague proposal provides for no definite re-installation of the Artwork.

45. I spoke at the February 14, 2022 PDC hearing, and expressed my disapproval of the Removal Plan. In particular, I expressed that the Removal Plan says very little about the artist themselves, despite the importance of the artists behind the Artwork. My daughter, Kim Snyder, is more adept at Zoom technology and also spoke out against the Removal Plan at the February PDC hearing. She specifically discussed the lack of consultation that has occurred regarding reinstallation of my work and the “extremely saddening loss of legacy” that the Removal Plan poses to me.

46. 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.

47. 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.

48. Nevertheless, 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 Mr. Haas and me, despite the fact that I spoke in opposition to the Removal Plan at the February hearing, and no commitment to reinstall the Artwork timely or even to reinstall it at a specific location.

49. 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 124-125 White Street.

50. While the City has reached out to me and I have met with them on a number of occasions, the contact has proven to be for show and there has been no meaningful “consultation” with me as promised in the Removal Plan. To date, no substantive work has been done with me to ensure the preservation of the Artwork and my vision behind the artwork.

URGENT NEED FOR PROTECTION

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

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

53. 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.

54. 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 10th day of May 2022



Kit-Yin Snyder