

Determining the value of unsold artwork

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Where the loss occurs can affect how value is assigned to a collection. (Photo: iStock)

When [Hurricane Sandy flooded the streets of New York City](#) in 2012, high-end galleries and artist studios in the Chelsea area were left with store rooms full of water and millions of dollars in fine art damage.

Settling fine art claims when the insured is the artist, or a when a gallery is claiming work by an artist whose creations they are holding on commission, can prove to be difficult for adjusters and appraisers alike. While the Hurricane Sandy situation was extreme, these types of claims happen frequently across the country.

Special artist-to-gallery relationship

To understand how to properly value unsold art being claimed by the artist or gallery, one must consider the special artist-to-gallery relationship.

Typically, galleries and artists work on a 50-50 or 40-60 percent commission split — meaning in the event the work of art is purchased, the gallery would retain 50 or 40 percent of the profits with the remaining amount of the sale going to the artist.

Knowing how to determine the real from the phony is an art.

Oftentimes if there is a loss to a work of art in a gallery, the artist *and* the gallery may be making separate claims for the loss. To avoid double payout, it's important to get this information up front; if

the artist is claiming the piece as a total loss, the gallery would not be entitled to full retail replacement value.

It is also important to ask about the commission contract the gallery went into with the artist of the damaged piece, as their monetary loss would only be the 50 or 40 percent value of the artwork. Many galleries and artists will be upfront and only claim the “wholesale” value of the art, or the price of the art minus commission.

Specific policies to cover losses

Some artists have specific policies written to cover their losses, especially those working in the glass medium where breaks are inevitable. A well-known American glass artist, with whom Enservio has had several claims, has a policy written to state that in the event of breakage the loss should be adjusted to 80 percent of the listed selling price after a \$5,000 deductible; otherwise the artist may only retain the wholesale price after considering a gallery commission payout. These types of specific policies are encouraged, especially if the artist is working in a medium susceptible to damage.

Oftentimes, the gallery may not be involved. The artist may claim a loss in his or her home or studio where works waiting to be sold on the market or pieces from previous years are stored. Some may wonder why the artist would be paid for his or her own creation because he or she can just make the piece again, but this is not an easy solution for a professional and marketable artist.

The individual’s time and talent have to be taken into consideration, and the piece that was damaged may not reflect the current style of work and the medium used may have shifted over the years.

In these situations, again it is important to understand how the artist typically sells work in the market. Some artists have their own galleries and avoid the issue of a commission payout. However, if they do work with several galleries who sell their work, they may be only owed the wholesale value.

The hobbyist artist

More frequently, the company sees claims when insureds are claiming their own art but may be a hobbyist artist or an art student; meaning they do not sell their work at galleries but have a large amount of personal artwork in their home or studio.

The insured may paint as a hobby, and the work may be of high quality, though if they have not sold any of their pieces in the past, it can be difficult to get a sense of market value for their work. In this case, appraisers and adjusters are encouraged to ask the following questions of the insured:

- Have they sold their work in the past?
- If they are painters, what price did they receive in the sale of their painting?
- Did they sell to friends and family or at an art fair?

If they can provide receipts, then it is understood that their work is beyond decorative and is marketable, and the receipt can be used as a starting point of value. However, if they have not sold their work, it is up to the adjuster whether to pay out the price of materials or have the work appraised in the emerging artist market.

Emerging artist market

The price of materials, in the case of a painting for instance, would break down the cost of the canvas, the various paints used, the varnish, the brushes, and any other additions. If the insured has a large volume of personal art and his work is of higher quality, the appraiser may suggest researching a value in the emerging artist market, which is a market where artists who are not yet established sell their work for a lesser value than a retail gallery.

Venues such as Etsy and Fine Art America, where artists list their own work for sale, are great resources for the emerging artist market. The style of the work, the quality, the size, and the medium all have to be taken into consideration when placing the work in the context of the emerging artist market.

When settling claims where the insured is the artist, or when a gallery is claiming damage of fine art, it is important to understand both the market level of the artist and the commission agreement to avoid overpayment or double payment.

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