



ATADA  ORG

---

NEWSLETTER - WINTER 2019

# In This Issue...

### 3 President's Letter

### 4 Legal Fund Auction

### 5 Legal Briefs

NAGPRA and the "Self-Evidentiary" Standard

by Ron McCoy

### 8 Legal Committee Report

### 9 ATADA Response to Recent AAIA Statements

### 10 North American Native American Groups Seeking Repatriation of Artifacts

by Lita Solis-Cohen

Article originally published in the January 2019 edition of *Maine Antique Digest*. Reprinted with permission.

### 12 Calendar of Events

Cover Image Courtesy of  
The Warnock Collection



#### Board of Directors:

President John Molloy

Vice President Kim Martindale

Treasurer Robert Gallegos

At Large Paul Elmore

Peter Carl

Patrick Mestdagh

Bill Faust

Mark Rhodes

Executive Director David Ezziddine

Design + Production David Ezziddine

[director@atada.org](mailto:director@atada.org)

#### Policy Statement:

ATADA was established in 1988 to represent professional dealers of antique tribal art, to set ethical and professional standards for the trade, and to provide education of the public in the valuable role of tribal art in the wealth of human experience. ATADA members are pledged to act as honest brokers, to guarantee the authenticity of their material, and to provide the buying public with the available information on the age, source, integrity, and collection history of the objects that they sell.

Additionally, ATADA sponsors a series of publications and seminars, offers educational grants (through our Foundation), and provides legal advice and insurance to members. ATADA also monitors and publicizes legislative efforts and government regulations concerning trade in tribal art. To attain its objectives, ATADA will actively seek suggestions from other organizations and individuals with similar interests.

The ATADA Foundation is a separate, non-profit 501(c)(3) entity. The ATADA Foundation is dedicated to expanding education on tribal art, both antique and contemporary, from around the world.

# President's Letter

Dear Fellow ATADA Members,

As we enter 2019, there is a new majority in the House of Representatives. The various committees will have new, Democratic majority leaders, members and staff. As a key voice for art dealers, museums, and collectors, ATADA's advocacy work must continue to ensure that legislators understand the issues related to collecting and trading in tribal art. A primary concern: despite acceptance of alternative legislation forwarded by ATADA together with tribes in 2018, the harmful STOP legislation is likely to be re-introduced this session. We especially look forward to working with the first Native American Congressional representative from New Mexico, Representative Deb Haaland, a registered member of the Laguna Pueblo.

A recent rash of predominantly anti-art trade media events focused on the dangers of money laundering tells us that we must anticipate a re-introduction of H.R. 5886, the Illicit Art & Antiquities Trafficking Prevention Act in 2019. This Act would impose onerous anti-money laundering reporting burdens – such as a bank would have - on any art business that grossed over \$50,000 per year. Estimated cost of compliance would be between \$4,000 and \$8,000 per year. It would require the collection of personal information on buyers as well as on sales, and sharing this information with authorities in multiple countries. We all know how the art-collecting public values its privacy, and in an international market, such legislation would severely harm the U.S. market, as well as forcing closure of many smaller businesses unable to meet compliance requirements. Even the legislation's proponents agree that there is no evidence that U.S. art businesses are engaged in money laundering.

Nonetheless, for prosecutors, being able to add charges for violating an anti-money laundering statute, simply for reporting violations, would allow them to pressure any art dealer to plead guilty to another charge. Regrettably, a well-funded and well-connected anti-collecting advocacy group, the Antiquities Coalition, has presented this bill (and other anti-collecting legislation) as anti-terrorist, despite a total lack of evidence for this. It is difficult for a member of Congress to oppose legislation that supposedly discourages terrorism. It is our job to get the Congress to understand that this label does not apply to the art trade. You will find more on this legislation in the newsletter.

We have entered an era in which “de-colonization” is a political hot button issue – although only as it applies to art – not to more valuable mineral and other commercial resources. A report sponsored by French President Macron has called for the return of all cultural items that were brought to France during the Colonial era. Greece continues to ask for return

of the Elgin Marbles, Egypt demands the Rosetta Stone, and Rapa Nui wants the British Museum's iconic Moai statue. The very idea of a universal art museum is under attack, not only by anti-collecting activists but in the popular media, for example in the treatment of an African art museum curator in the blockbuster film, *Black Panther*.

Museums are noisily denigrated as bastions of colonialism, while at the same time, public criticism over the opening of sacred sites as the Bears Paw Monument to oil and mineral profiteers is muted. This is a preposterous and absurd situation, but it is real.

In recent months, the Association on American Indian Affairs, or AAIA, had led a public campaign to claim that objects made by Native Americans, unless they are signed, are not ‘art.’ The AAIA has generated misleading and inaccurate media reporting on auction sales, and even accused the Metropolitan Museum in New York of wrongdoing in showing the Charles and Valerie Diker Collection. The organization has issued press releases and sent demand letters to every recent Native American art auction, alluding to possible violations of federal, state, and tribal law, and asserting that items clearly made for the commercial market are inalienable Native American cultural heritage. ATADA is gearing up to work with auction houses to respond to this latest assault on our industry and on collecting.

Our industries and the artisans, collectors and museums they support must stand together to change this negative and misleading narrative – and to raise the importance of supporting regional economies, cultural tourism, contributions to study and understanding of diverse cultures – and especially the joy and satisfaction of collecting art.

Once again, I must ask all of you to help us to defend the fundamental principles of access to and appreciation of all world cultures. We need to re-invigorate the Roger Fry Memorial Legal Fund. We are again asking for contributions. We are also planning a series of auctions to raise money for this crucial work. We would like each of our members to donate a piece worth in excess of \$500. We also are asking for donation of higher value items, which could be protected by a low reserve with a split-over or some such agreement with the Fund. Please advise our Executive Director, David Ezzidine, if you are willing to participate ([director@atada.org](mailto:director@atada.org)). More details will be coming soon.

Asking your help with the work at hand and with hope in the future,

Sincerely,

John Molloy

# Seeking Items for Auction in Support of

# The ATADA Legal Fund

IN MEMORY OF ROGER FRY

- ATADA needs YOU to contribute items for auction to replenish the Legal Fund.
- We accomplished much this past year. We halted two different bills that would have harmed art dealers, collectors and museums.
- Already in 2019, Congress is swamped with demands for more damaging legislation.
- Even with reduced fees, combating phony claims about 'stolen' art and money-laundering is costly, but the cost to you of failing to act could be far higher.
- We need your help to keep you and your collections safe from government overreach.
- We are asking each of our members to contribute at least one item worth in excess of \$500 for an upcoming series of auctions to benefit ATADA.
- Every ATADA Board Member has committed to donating: we need you to do the same.
- Public education and legislative action will be more important than ever in 2019. Please act today - so we can meet the challenges ahead.

**MORE DETAILS COMING SOON!**

**If you are interested in donating one or more items - or would like to make a monetary contribution to the Legal Fund, please contact:**

**David Ezziddine at [director@atada.org](mailto:director@atada.org)**

**Learn more about the work we have done at: [atada.org/legal-issues](http://atada.org/legal-issues)**



**ATADA is a 501(c)(4) organization; gifts to ATADA and the ATADA legal fund are not tax deductible.** ATADA's tax status enables it to work directly in Washington and elsewhere to make real change for your benefit.

# Legal Briefs

## NAGPRA and the “Self-Evidentiary” Standard

by Ron McCoy

Facts, as many wise folks have pointed out, are stubborn things.<sup>1</sup> Words are like that, too. Whether used to clarify or obfuscate, words are often all we have. We rely on them, and when they tell us nothing or next-to-nothing they may sow confusion. I had cause to ruminate on that point recently while writing an essay on the Native American Graves Protection and Repatriation Act (NAGPRA), which became U.S. law back in 1990, and has reverberated throughout the tribal art world ever since.<sup>2</sup>

The piece I wrote touched on a few points, including the question of whether – and, if so, the degree to which – NAGPRA has slipped the mooring lines of its original intent. There is, for example, ample reason for concern about how the law is being implemented, especially with respect to the repatriation of pieces it identifies as belonging in one (or both) of two related categories: “sacred objects” and “objects of cultural patrimony.” The interest underlying that concern is piqued and only intensified when the standard relied on for making such a determination comes across as falling short of the clear and convincing mark.

Consider, for example, a recent NAGPRA notice of intent to repatriate that seemed unusually puzzling: “Notice of Intent to Repatriate Cultural Items: U.S. Fish and Wildlife Service, Office of Law Enforcement, Albuquerque, NM,” which appeared in the March 4, 2018 issue of the *Federal Register*.<sup>3</sup> It is, basically, a formulaic statement, practically a fill-in-the-blanks exercise. Although this sort of once-over-lightly, get-it-out-the-door treatment is not unknown when it comes to NAGPRA’s notices of intent to repatriate, these declarations usually provide significant details about the relevant objects; information people in the tribal art world might find both interesting and helpful.

But that is not the case with this notice. That notice informs us that in “February 2016, a cultural item was removed from a residence in McKinley County, NM,” meaning Gallup or its environs, and that it was

“included in a collection of items with eagle feathers surrendered to law enforcement agents.” (That sounds like a bare-bones description of a federal feather raid.)

Here is what the notice says about the piece in question:

The one object of cultural patrimony is a bison headdress with glass beading and eagle plume feathers. Cultural affiliation was determined based on the type of beading, which compares with historic photos of beaded headdresses provided by the Comanche Nation, Oklahoma.

What caught my attention about this notice was not just its formulaic quality, but its absurdly brief description of the object.

Where to start with this? We might begin by asking, what kind of “bison headdress” are we talking about here? Any idea about when it was made? Who used it? When? For what purpose?

This headdress is not a “sacred object” under NAGPRA, because there is no mention of that in the notice. Instead, per the notice, the tribe and the government agreed this is a piece of “cultural patrimony” which “meets the definition of object of cultural patrimony” because of its “ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.”

It seems reasonable to ask a basic question (for which there ought to be an equally basic answer): How and why, *exactly*, does the piece qualify as an object of cultural patrimony?

That question motivated me to email Ariel R. Vasquez, Resident Agent in Charge of the U.S. Fish and Wildlife Service’s Office of Law Enforcement for its Arizona/New Mexico District, and the contact person stipulated in the notice. I asked whether he might “provide me with information about the basis for concluding the piece is an object of cultural patrimony.”

Agent Vasquez replied, suggesting I “send a formal request in a letter format” to David Siegel, the USFWS Regional Archaeologist/Regional Historic Preservation Officer in Albuquerque. I was advised to “[p]lease include in the letter what is your interest in this matter.”

I bit my tongue – isn’t “member of the public” enough? – and wrote David Siegel, referencing the notice and relevant passages. I tried to be upfront, disclosing at the outset that this inquiry came from someone who publishes:

For many years I’ve written about NAGPRA, first for American Indian Art Magazine and now for the Antique Tribal Art Dealers Association. Laying out the basis for determining that a piece is an object of cultural patrimony is a regular feature of NAGPRA repatriation notices. (It’s also helpful for people who follow developments regarding NAGPRA and its application.) I’m curious: What, precisely, was the basis for determining this particular piece is an object of cultural patrimony as I cannot find reference to specific evidence taken into account?

Two weeks later, I received a letter from Mr. Siegel.

“Our basis for making that determination was the Comanche Nation’s recognition of the headdress as an object having historical, traditional, or cultural importance to the tribe, rather than property owned by an individual tribal member,” he explained, using NAGPRA boilerplate language. “We accepted the tribe’s view as self-evidentiary.”<sup>4</sup>

“Self-evidentiary”? *Whoa*. What does *that* mean?

Whatever meaning the author of the statement intended – the term “self-evidentiary” does, after all, bring to the fore certain epistemological considerations – I’m probably not alone in finding it virtually meaningless in the context of the object in question.

To claim a piece is an object of cultural patrimony because it is “self-evidentiary” must mean that the tangible object itself – and the tribe’s claim about it – provide all the evidence you’ll ever need. (Even if the object and the claim are not adequately described.) Somehow, the object and claims about it convey an

unambiguous message announcing its status as cultural patrimony. Absent a straightforward answer to the original question – or the kind of certitude gleaned from a gob-smackingly epiphanic moment – this is the kind of stretch associated with Plastic Man, a comic book hero of my youth.

Although I felt like I was engaging in an act weirdly comparable to laboriously peeling away the layers of an onion, I replied:

The question I raised was: What, precisely, was the basis for determining that this piece is an object of cultural patrimony? In your letter, you describe accepting the tribe’s view that it is an object of cultural patrimony as “self-evidentiary.” The problem I’m having with this is, the notice provides no details about the basis for making or accepting such a claim.

Does the act of simply making a claim, in and of itself, meet the [NAGPRA] preponderance of evidence standard? Is there no obligation on the part of those drafting a notice of intent to repatriate to inform the public with details about such a claim, e.g. its basis and the reason for it being considered an object of cultural patrimony?

After about three weeks passed with no word from the USFWS archaeologist, I wrote him again: “My query remains the same and I hope to hear from you soon.”

I assumed (correctly) I would not be hearing from anyone involved in this repatriation any time soon. (As of this writing, it’s been about two months since my last inquiry about this matter was delivered.) Apparently, there was nothing of interest or relevance to add, no points of amplification to be made. Nothing, beyond “self-evidentiary.”

“Tell ‘em what you’re gonna tell ‘em, then tell ‘em again.” That was some of the advice a wry professor known for the crisp quality of his writing passed along to those of us fortunate enough to be among his students. “Tell ‘em, then tell ‘em again” is all about clarity in communication. Whatever you’re trying to say, say it. You really don’t have to repeat the point endlessly, but, by golly, you need to have a point and

you need to make sure it doesn't get so mired in ambiguity and/or confusion that it comes across as at once profoundly unhelpful and fundamentally – perhaps self-evidentiarily? – irrelevant.

The point here isn't how long or short a NAGPRA notice of intent to repatriate should be. There is a good deal more involved here than word-count. It's not the number of words that's important; what's important is the message they convey.

What seems to be at stake, really, is clarity. Just because a passage is concise doesn't mean it brims with clarity; writing clearly with brevity, well, that's a challenge. I really don't care about the length of a such a notice. What I do care about is reading a notice that is sufficiently thorough for a reasonable person to understand what the object in question is and how – again, *exactly* – the final determination was made. In other words: let's see the evidence.

When it comes to NAGPRA, we've already witnessed plenty of blurring of the lines regulating the differences between established understandings and ever-shifting political/cultural pressures. (Perhaps that was inevitable, given the agendas involved.) But eventually don't we run the risk of the blur replacing established boundaries, to the point that there is nothing but blur?

Sooner or later, anyone seriously interested in or concerned about NAGPRA will consult the notices of intent to repatriate it generates in the *Federal Register*. It behooves those involved in creating the notices – indeed all of us – that these announcements be clearly stated and helpfully descriptive. After all, while a law may establish this or that it should also educate those it affects and whose behavior it seeks to regulate. Otherwise, the law itself may be perceived as confused and capricious.

---

<sup>1</sup> Among them was John Adams, later president of the United States, who, in his defense of British troops tried in connection with the 1770 “Boston Massacre,” pointed out to his countrymen, “Facts are stubborn things, and whatever may be our wishes, our inclinations, or the dictates of our passions, they cannot alter the state of facts and evidence.” David

Please note: This column does not offer legal or financial advice. Anyone who needs such advice should consult a professional. The author welcomes readers' comments and suggestions, which may be sent to him at [legalbriefs@atada.org](mailto:legalbriefs@atada.org)

McCullough, John Adams (New York: Simon and Schuster, 2001), 123.

<sup>2</sup> “Is NAGPRA Irretrievably Broken?” Cultural Property News (Dec. 19, 2018), <https://culturalpropertynews.org/is-nagpra-irretrievably-broken/>

<sup>3</sup> “Notice of Intent to Repatriate Cultural Items: U.S. Fish and Wildlife Service, Office of Law Enforcement, Albuquerque, NM” Federal Register, Vol. 83, No. 65 (April 4, 2018), 14501-14502, <https://www.federalregister.gov/documents/2018/04/04/2018-06836/notice-of-intent-to-repatriate-cultural-items-us-fish-and-wildlife-service-office-of-law-enforcement>

<sup>4</sup> According to Siegel's October 15, 2018 letter to me: “If you are asking about the basis for determining cultural affiliation, we made that determination based on the expert opinion of curators at the Museum of the Great Plains in Lawton, OK, and based on the Comanche Nation's recognition of the headdress as Comanche.” Actually, that's not what I asked; I asked how it was determined the headdress is an object of cultural patrimony. That appears to be the “self-evidentiary” element Siegel mentions.

Thank you for making ATADA the premier tribal art organization in the U.S.! We need your continued support to protect you, your business, and your collections in 2019. Here is just some of what we accomplished in 2018, thanks to you!

- **We halted passage of STOP**, the Safeguard Tribal Objects of Patrimony Act, S. 1400, for the 2018 legislative session. STOP made it official U.S. government policy to encourage the return to tribes of all “significant objects, resources, patrimony, or other items... affiliated with a Native American Culture,” including jewelry, ceramics and other legal possessions.
- **The ATADA Board met in person with 8 legislative offices** to show them how STOP discourages all trade in Indian art, will destroy value in legally-owned private property, and lacks due process, making it illegal to export objects without identifying what those objects are. STOP is expected to resurface early in 2019; we’ll coordinate with the Association of Art Museum Directors and others to work against this harmful legislation.
- **We worked together with tribes on alternative proposed legislation**, the Native American and Native Hawaiian Cultural Heritage Protection Act of 2018, H.R. 7075, to ensure that unlawfully obtained objects do not leave the U.S., and that the rights of art collectors and dealers are preserved against expansion of NAGPRA.
- **We fought passage of H.R. 5886**, the Illicit Art and Antiquities Trafficking Prevention Act, that would have forced burdensome, expensive, and privacy-destroying Bank Secrecy Act anti-money laundering rules on every single art and antique dealer in the U.S. who sells \$50,000 of goods a year. **This legislation, backed by anti-art trade extremists, will be reintroduced in 2019** with support from law enforcement, who admit there is no U.S. money laundering through art, but want to have additional charges to add in cultural property cases.
- **ATADA submitted testimony to the Cultural Property Advisory Committee** at the Department of State on five proposed agreements and renewals to **halt imports of ethnographic art from Central America and the Middle East**, partnering with Jewish and Christian minority organizations whose property is claimed and cemeteries are being desecrated.
- **Our Voluntary Returns Program led the way** in educating the public and bringing important ceremonial objects to tribes for current religious practices, benefitting tribal communities and building bridges for all.
- **We partnered with U.S. and international organizations** to multiply the effect of our policy initiatives: Global Heritage Alliance, numismatic groups, and CINOA testified with us on key legislation.

**ATADA’s work kept bad legislation from passing. We worked with tribes to bring better legislation forward. But we face new tests and trials in 2019.** A 2019 STOP and renewed anti-money laundering legislation are certain to be re-introduced.

**New dangers loom.** The Association on American Indian Affairs has stated that Indian artifacts in museum collections “are not art,” but cultural patrimony. They want tribal approval of sales of antiques. This undermines protections under NAGPRA and extends claims to the private sector. **Public education and legislative action will be more important than ever in 2019.**

ATADA is working to keep you and your collections safe from government overreach. **We’ve done great work but our resources are exhausted**, and we need your help to meet the challenges that we KNOW are coming. **You can make that difference right now!**

**Please contribute today! Make your check payable to the ATADA Legal Fund and mail to:**

**David Ezziddine  
Executive Director, ATADA  
PO Box 157  
Marylhurst, OR 97036**

Questions? Contact David at [director@atada.org](mailto:director@atada.org)  
Visit [www.atada.org/legal-issues](http://www.atada.org/legal-issues) to learn more about ATADA actions.

**ATADA is a 501(c)(4) organization; gifts to ATADA and the ATADA legal fund are not tax deductible.**  
ATADA’s tax status enables it to work directly in Washington and elsewhere to make real change for your benefit.

## ATADA Response to Recent AAIA Statements

Recent statements by the Association on American Indian Affairs have called for museums not to exhibit and auction houses to cease sales of a wide range of Native American objects in commercial circulation, unless exhibition or sale is approved by tribes. ATADA, the largest U.S. organization of dealers in antique and contemporary Native American and global ethnographic art, objects strongly to these statements, which we believe will harm the legitimate art trade, Native artisans, and the American public.

The 140 years of lawful trade and production of tribal arts cannot be denied or dismissed. Working together, recognition of the legitimate trade can be a platform for public education and can spur legislative action helping tribes. ATADA worked in cooperation with tribes in submitting legislation to Congress in 2018, and will do so again. As ATADA has demonstrated in its public education programming, educating the public on art should be combined with education on tribal values.

Native peoples have suffered greatly from past government policies that included brutal suppression of traditional life-ways and forced assimilation. Loss of cultural artifacts in the past should not obscure current issues, including the taking of tribes' economic resources, such as oil, gas, and minerals that deserve the attention of all Americans.

The art trade is committed to responsible due diligence, professional practices and following the law. U.S. museums, dealers, and private collectors have both goodwill and a desire for cooperative future work with tribes. Auction houses and art dealers are ready to listen and to learn. The President and Board of Directors of ATADA express their willingness to work together with sovereign tribes to find a shared path that benefits both Native American peoples and the entire American public.

ATADA is committed to working together with Indian tribes to preserve objects of religious importance in tribal hands. ATADA was the first organization to bring large numbers of important objects back to tribes through the ATADA Voluntary Returns Program, returning over 150 ceremonial objects in just the last two years.

ATADA wants to ensure safe, tribal-supervised preservation of ceremonial objects and will work with tribes to bring legislation forward to:

- bring objects and ancestral remains under federal government control back to tribes, and
- build tribal government capacity by funding cultural offices and developing tribal legislation.

ATADA supports protecting the cultural landscape by reviving tracking mechanisms for damage, theft, and archaeological losses, which the federal government ceased collating in 2011.

Achieving these important goals requires cooperation, dealing with the facts, and staying within the parameters of U.S. law. The Native American Graves Protection and Repatriation Act (NAGPRA) and the Archaeological Resources Protection Act (ARPA) were expressly designed to preserve sites and monuments, and to address the wrongful taking of Indian ancestral remains, objects used in current religious ceremonies, and communally-owned cultural patrimony. Neither law covered objects made for individuals or for lawful trade. Neither law discouraged collection of Indian art in general. In fact, one of ARPA's purposes was to foster cooperation between the government, archaeologists, and private individuals holding collections of Native American art. (16 U.S.C. § 470aa(a)(4)).

For more information on the claims made by AAIA, please see the following article from the January 2019 issue of *Maine Antiques Digest*.

## North American Native American Groups Seeking Repatriation of Artifacts

by Lita Solis-Cohen

On October 8, 2018, Eldred D. Lesensee, the public relations spokesman for the Association on American Indian Affairs (AAIA), contacted Rago Arts & Auction Center in Lambertville, New Jersey, asking the auction house to withdraw American Indian lots from its October 19 auction of tribal art from the collection of Allan Stone and other owners, alleging that Rago had not made contact with affiliated Native American tribes about the property.

The AAIA demanded that tribes affiliated with the collections be contacted to see if the items had entered collections through theft, looting, or illegal trafficking. Although none of the 15 lots of items from Native American nations, including Apache, Iroquois, Sioux, and Tlingit, were sacred objects or ancestral remains that would have violated the Native American Graves Protection and Repatriation Act (NAGPRA) of 1990, Rago was asked to withdraw all of the American Indian property in the sale. The request was subject to review by unnamed tribal authorities. The AAIA offered to assist in making connections with affiliated tribes.

“It was about \$20,000 worth of material in a million-dollar sale, and we did not have time to consult with tribal leaders just a few days before the sale. In consultation with the Stone estate, we withdrew the lots and returned them to the estate,” said David Rago.

This was Rago’s first tribal sale, and he had asked John Buxton, a colleague on the Antiques Roadshow, to help catalog it. Buxton, an appraiser, said he saw nothing that should not have been sold.

Wes Cowan, an Ohio auctioneer who regularly sells American Indian material, said he has never been contacted by the AAIA, and he did not see anything in the Rago catalog that might have been taken from a grave and needed repatriation. He wondered if the fact that Rago was new to the field made him vulnerable.

Skinner, Inc., in Massachusetts has been selling Native

American art and artifacts for decades. In November, one of the consignors to its December 1 sale was contacted by another group seeking repatriation of Native American artifacts. Jean-Luc Pierite, president of the board of directors of the North American Indian Center of Boston (NAICOB), called the Medford Public Library to tell the library that its collection of 19th-century Pacific Northwest Indian artifacts donated to the library in 1880 by James G. Swan needed to be researched to be sure it had not been looted before it could be sold at Skinner. It included two wood shaman’s masks (est. \$30,000/50,000 each), two shaman’s bird rattles (est. \$5000/8000), a shaman spirit figure (est. \$4000/6000), a cedar trunk (est. \$3000/5000), and a cedar totem pole (est. \$800/1200).

Under NAGPRA any museum that has received as much as one dollar in federal funding is asked to return property stolen or traded out of the need for food, shelter, and other basic necessities. Some institutions that receive federal aid have repatriated some items back to the nations.

Asked how she learned of the Medford Public Library’s consignment to Skinner, Raquel Halsey, interim executive director for NAICOB, said a reporter from the Boston Herald had called and asked her about the sale at Skinner. In the two years she had worked at NAICOB, this was the first time she had dealt with repatriation. When reached by phone, Karen Keane, CEO of Skinner, said the sale of Indian artifacts from the Medford Public Library had been postponed. “Some of the material is Canadian and not covered by NAGPRA, but we must give the library time to deal with this,” she said.

Shannon Keller O’Loughlin, executive director of the AAIA, said she had recently attended the fourth annual Repatriation Conference at Potawatomi Hotel & Casino in Milwaukee, Wisconsin, held November 13-15. AAIA, the oldest group of its kind, founded in 1922, sponsors the conference. She posted a letter

claiming that the Medford Public Library is likely in violation of NAGPRA in wanting to sell its Northwest Coast items and could be subject to civil penalties, and stating that Skinner should not sell items over 100 years old that do not have an artist's signature denoting that the item is a commercial piece unless a tribal governmental representative has verified that such an item is not the patrimony of the tribe and is not a stolen or looted object.

The AAIA, headquartered in Maryland, wants the public to know about its mission to return sacred objects to tribes and to alert those who do repatriate that they can take a tax deduction. "These objects are cultural property, not art, and were not made for sale. They were looted or stolen over the years," said O'Loughlin. She insisted that "much of what we call American Indian art was ceremonial or funerary patrimony" and that "some masks are powerful items not to be seen in public, dangerous to view or to hold, the property of healing societies."

Among recent AAIA press releases is one directed to the current exhibition at the Metropolitan Museum of Art. It asks people to contact the Met and demand that it remove immediately all items of Native American cultural heritage from its exhibit *Art of Native America: The Charles and Valerie Diker Collection* until the Met consults with affiliated tribal governmental representatives. Sylvia L. Yount, curator in charge of the Met's American Wing, said the Metropolitan Museum of Art has cooperated with NAGPRA for years and that Gaylord Torrence, the Fred and Virginia Merrill Senior Curator of American Indian Art at the Nelson-Atkins Museum of Art in Kansas City, Missouri, who curated the exhibition of works from the Diker collection, was comfortable with the 116 objects on view. Yount believes it is important that American Indian art is shown in an art museum, not only in ethnographic museums. She said she has seen to it that a multiplicity of voices is heard.

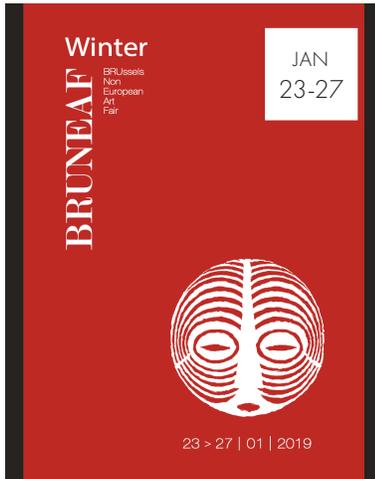
On the Met's website is a notice: "The Metropolitan Museum of Art is situated in Lenapehoking, the homeland of Lenape peoples, and respectfully acknowledges their ongoing cultural and spiritual connections to the area." To demonstrate how artists and scholars inform and expand our understanding of expressions of cultural identity, the Met asked nine

Native American artists and several Native American historians of 18th- and 19th-century works to comment on works by Saint-Gaudens, Bierstadt, Bingham, and others. "We have a long-term commitment to showing the art of the Americas, and we are super sensitive to the spiritual significance of Native American works, and we follow the letter of the law," said Yount.

According to John Molloy, president of the Antique Tribal Art Dealers Association (ATADA), the association has agreed not to sell cultural property that offends Native American religious sensibilities, and it follows federal laws and adheres to the highest standards of professional ethics. Molloy said the Indian market in Santa Fe has been held every summer for 96 years, and in the 1830s Native Americans were selling their wares to tourists at Niagara Falls, demonstrating that Indians have traded for a long time. In the 25 years since NAGPRA has been the law of the land, dealers have returned over 100 ceremonial artifacts to southwestern Indian tribes.

Kate Fitz Gibbon, a cultural property lawyer in Santa Fe who advises ATADA and other clients on the question of repatriation, said in a phone interview and e-mail that "these indiscriminate demands for repatriation and tribal review of all objects for sale or exhibited are not based on any U.S. law. They will not only damage the legal market for American Indian art but will harm Native artisans as well. Legal remedies exist when something is actually stolen, and the trade responds very positively in these cases. ATADA has gone well beyond the legal requirements to bring important ceremonial objects back to tribes in their Voluntary Returns Program."

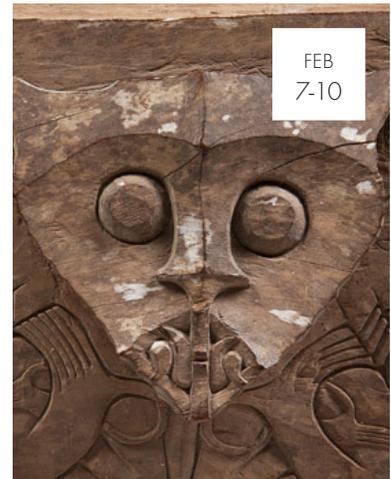
Fitz Gibbon said that what really worries her is that the AAIA is demonizing art dealers, collectors, and museums, making them its focus, when a national monument such as Bears Ears, which was created through tribal consultation precisely because it contains more than 100,000 archaeological and cultural sites, has now been reduced by 85% by the current administration. "It seems like the art issue is a smokescreen for a much larger issue of cultural heritage that won't be discussed because it involves real money, and oil and gas and uranium interests," she suggested.



**Winter BRUNEAF 2019**  
Multiple Venues - Brussels, Belgium  
Jan 23-27, 2019  
[bruneaf.com](http://bruneaf.com)



**29th Annual Mesa Old West Show**  
Mesa Convention Center - Mesa, AZ  
Jan 26-27, 2019  
[oldwestevents.com](http://oldwestevents.com)



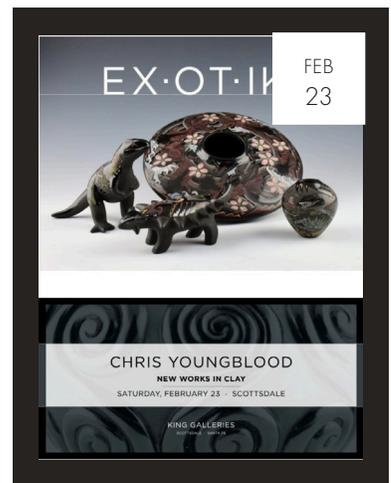
**San Francisco Tribal & Textile Art Show**  
Ft. Mason Center, Festival Pavilion - San Francisco, CA  
Feb 7-10, 2019  
[sanfranciscotribalandtextileartshow.com](http://sanfranciscotribalandtextileartshow.com)



**The Western Vision of Edward Curtis and Ben Wittick**  
Mark Sublette Medicine Man Gallery - Tucson, AZ  
Feb 8 - March 1, 2018  
[medicinemangallery.com/events](http://medicinemangallery.com/events)



**American Indian Art Show - Marin**  
Marin Civic Center - San Rafael, CA  
Feb 16-17, 2019  
[marinshow.com](http://marinshow.com)

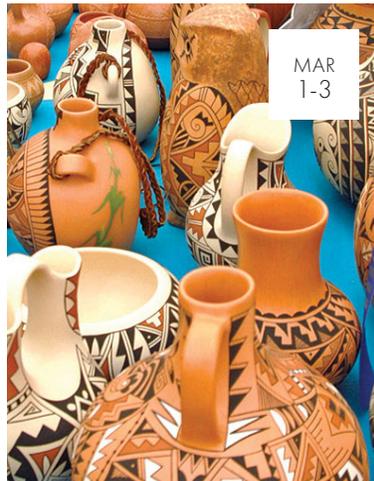


**New Works by Jennifer Tafoya and Chris Youngblood**  
King Galleries - Scottsdale, AZ  
Feb 23, 2019  
[kinggalleries.com/events-2/](http://kinggalleries.com/events-2/)



FEB  
28

**Heard Market Gallery  
Opening**  
Waddell Gallery -  
Scottsdale, AZ  
Feb 28-March 3, 2019  
[waddellgallery.com/blogs/  
events/scottsdale](http://waddellgallery.com/blogs/events/scottsdale)



MAR  
1-3

**Heard Museum Guild Indian  
Fair & Market**  
Heard Museum - Phoenix, AZ  
[heard.org/fair/](http://heard.org/fair/)



Ends  
MAR  
29

**IMPRINT**  
Ralph T. Coe Center -  
Santa Fe, NM  
Through March 29, 2019  
[coeartscenter.org](http://coeartscenter.org)



MAR  
30

**2019 American Indian  
Student Art Show & Sale**  
Heard Museum - Phoenix, AZ  
March 30 - April 1, 2019  
[heardguild.org/studentart/](http://heardguild.org/studentart/)



APR  
5

**American Indian and  
Western Art - Premier Auction**  
Live Salesroom Auction  
Cowan's Auctions -  
Cincinnati, OH  
April 5, 2019 • 10:00 am ET  
[cowanauctions.com](http://cowanauctions.com)

## ATADA .ORG

Further listings of upcoming and ongoing shows can be found on our online calendar at: [atada.org/calendar](http://atada.org/calendar)

To submit your listing, please use our online submission form on the of calendar page our website.

*\*Please note that all listings are posted solely at the discretion of ATADA. We regret any errors or omissions in this calendar; we cannot be held responsible for incorrect or changed information.*

## Partner Organizations



[www.tribalartmagazine.com](http://www.tribalartmagazine.com)

FLATHER & PERKINS, INC.

[www.flatherperkins.com](http://www.flatherperkins.com)

**NATIVE** AMERICAN ART

[nativeamericanartmagazine.com](http://nativeamericanartmagazine.com)



[prehistoricamerican.net](http://prehistoricamerican.net)

American Indian Past & Present  
Whispering Wind magazine *Established 1967*

[www.whisperingwind.com](http://www.whisperingwind.com)

Native Art   
Week

[nativeartweek.com](http://nativeartweek.com)

 OBJECTS OF ART  
SHOWS

[objectsofartshows.com](http://objectsofartshows.com)



[www.oceanicartsociety.org.au](http://www.oceanicartsociety.org.au)