



Lowenstein Sandler's Trusts & Estates Podcast: Splitting Heirs

Episode 19:

Going Once, Going Twice...(but who's it going to?
And what's it worth?)

By [Warren K. Racusin](#), [Meghan M. Federman](#)

MAY 2025

Warren Racusin:

I know you've been nervous, checking your notifications, wondering where we've been and where we're going to be. And I'm not talking about the stock market, but all good things come to those who wait. So, from the law firm Lowenstein Sandler, this is Splitting Heirs. I'm Warren Racusin.

Everybody loves a good scam, especially when they're not the scammees. And in the world of art and collectibles, it isn't any different. Take this story, which like they say in the movies, is inspired by true events. A famous art collector goes to the board of a small museum and says, "Nothing makes me happier than helping philanthropic organizations like yours. Have I got a deal for you? I'll sell you several of my world's famous masterpieces, I'll even give you a little discount off their real value, and they'll put you on the map as a major destination for art lovers. Of course, I'll get a little bit of a tax deduction and everyone will be happy."

The museum eats it up and makes the deal. Turns out the paintings may not be the Pollocks and the Rembrandts that the collector says they are, and they may be worth a little less than the museum paid for them. Actually, a lot less. The museum almost goes under until it finds some legit people who buy the genuine painting from it. And, oh yeah, collector boy ends up in federal prison for tax fraud, not related to this, of course, some other scam lands him in the slammer.

A lot of people focus on real estate bank accounts and financial assets when they think of estate planning, but what happens to your priceless art collection or those vintage cars or musical instruments you've poured so much time and passion into? It's a critical question, especially as these items often hold both sentimental and financial value. So, estate planning for art and valuables is different than traditional estate planning. There's a lot more nuance involved and a lot more emotion. Today we're going to walk you through why it's important, how to value your collection, how to ensure it's properly cared for, and how to make sure it gets to the right people.

Helping us out with that is my colleague Meg Federman who works with donors and collectors and is going to take us through the many legal and planning issues you have to think about. And our special guest is Joanne Mournet, the president of Doyle Galleries in New York City. Joanne is going to help us understand how to maximize the value of your collection, things you should think about when working with an auction house, and just maybe a couple of cool stories about the nutty things that happen when dealing with art, musical instruments, and other, hopefully genuine, collectibles. Meg, why

is planning for art different than dealing with bank accounts, stocks, real estate, and all the other things that make up someone's estate?

Meghan Federman: So, leading into it, these items, especially art, often carry a lot of emotional value for both the donor and the beneficiaries. You don't want them to end up in the wrong hands or, worse, get auctioned off unintentionally. Planning ahead ensures your collection ends up where you want it to, plus some art and valuable collectibles can appreciate over time. Without a clear plan and attention to detail, there's a risk of undervaluing these items or missing out on potential estate tax deductions.

Warren Racusin: Let's talk about the first big step, cataloging your collection. Many people have collections they've accumulated over years or even decades, they haven't written down what they own or valued it properly. So how do you get started?

Meghan Federman: The first thing you need is a detailed list of everything you own, and I mean everything. From artwork to antiques, collectibles, jewelry, and even rare wines or vintage cars. Each item should be described in detail, the artist, the year, materials, and any provenance or history associated with it.

Warren Racusin: And if you can, it's also really helpful to include photographs of each piece. Receipts, appraisals, certificates of authenticity, you should have those on hand as well, it'll make the process much easier if you need to authenticate the items later.

Meghan Federman: And if you're not sure how to catalog your items properly, consider working with an appraiser, professionals like Joanne. A professional can help assess the value and even advise you on the right next steps to take.

Warren Racusin: Which brings us to valuation. You need to know what your art and valuables are worth today and potentially what they might be worth in the future. That helps with things like estate taxes, insurance, and how to divvy up your stuff when you die or if you're making gifts during your lifetime.

Meghan Federman: That's right, a professional appraiser can help you assess the value. In some cases, art pieces can drastically increase in value after the artist's death. So it's crucial to update valuations regularly, especially if you plan to make gifts during your lifetime. You also need to factor in potential capital gains taxes if your collection appreciates in value and whether that might weigh in favor of waiting to transfer your collection until death rather than making gifts during your life.

Warren Racusin: Because from that perspective, art is no different than real estate or stocks and bonds. If you sell it for more than you paid for it, there's a capital gains tax that you might have to pay. And don't forget about insurance. Many items, especially high value art or rare collectibles, need to be properly insured. Now, so let's now talk about one of the trickiest parts of estate planning, deciding who gets your stuff. Art and collectibles are deeply personal, and it's often difficult to decide who gets what. The decision gets much easier if you've had these conversations in advance and you make it clear in your will and your other estate planning documents, right Meg?

Meghan Federman: Yeah, definitely, Warren. You want to be clear about your wishes. Do you want certain pieces to stay in the family, or perhaps you prefer to donate them to a museum? Maybe you want your artwork to go to a specific friend or loved one who shares your passion for it. We have clients who literally go through their house and do a video, Joe gets this, Sarah gets that, et cetera. Or they put stickers on the backs of things. Or maybe what you really want is for your family members to have a say in who gets what. In that case, having a clear system, such as drawing straws to determine a picking order or providing for some kind of auction among the beneficiaries goes a long way towards easing tensions later.

Warren Racusin: We had clients who directed their family to flip a gold coin at the 50-yard line at Giants Stadium to decide who goes first, I guess that works. Another option for your planning is setting up a trust specifically for your collection; that allows you to control how your art and valuables are passed down, whether they're sold, displayed, kept by a specific heir, et cetera. Bequeathing art or other collectibles to a trust can raise some complications, right Meg, you want to take us through a couple of those?

Meghan Federman: Sure. One thing that can come up with trusts is possession. Will the beneficiary have the right to display or make use of the item? If there's more than one beneficiary of the trust, how will the right to display or make use be allocated? If the donor wishes to retain possession following gift to a trust, a lease of the item at its fair market rental value from the trust following the gift should be considered. Another perspective that might play into a trust is expenses. Will the beneficiaries be responsible for the expenses of insurance, storage, other expenses, or will they be borne by the trust? If the trust will bear the burden of payment, how much liquidity will be needed to maintain these costs and expenses for the term of the trust?

Finally, we have to think about safeguarding. The term of the trust should explicitly address what duties the trustee has to safeguard and ensure the artwork held in trust and to what extent periodic fair market valuation should be obtained.

Warren Racusin: So, a trust can be helpful that it puts all of your collectibles under one roof, figuratively as well as literally I suppose, and allows everything to be managed, the collection to be managed together, but it's got to be a carefully drawn trust to touch all the bases that Meg just talked about. Transferring ownership of art or collectibles to another type of family entity, such as a family limited partnership or a limited liability company, which you may have heard of, provide all sorts of other numerous benefits. Creditor protection, centralized ownership management, opportunities for equal and tax advantage gifting during the life donor's lifetime, as well as opportunities for potential tax savings. Meg, you want to chat about that a little bit more?

Meghan Federman: Sure. A collector or an investor may form an LLC for tax savings, because by putting everything into the entity, the collector could then gift certain percentage interests of that entity to their children, their family members trust for their benefit, et cetera. When those gifts are made, the percentage interest of the overall entity, those are going to be minority interests in that LLC, and therefore there may be discounts that the collector is able to take

on the gift tax return to account for a lack of control and a lack of marketability.

Warren Racusin: Right, because remember, when you make a gift of art, it's the same as making a gift of anything else. You all remember from our earlier podcast about estate planning and estate tax, gifts can potentially be subject to gift tax just as an estate can be subject to potential estate tax, but putting the artwork into an entity makes things easier for two reasons. Number one, it's easier to gift a percentage of an LLC than it is to give 25 percent of a Monet to somebody. And secondly, because you're making gifts of interest in the entity rather than in gifts of the underlying assets that might give you a tax break from an estate and gift tax valuation point of view. Shifting gears a bit, you want to make sure that the person inheriting your collection is not only interested in it but has the means to care for it, right, Meg?

Meghan Federman: Definitely. So, art, for example, needs the right environment. Humidity, control, temperature regulation, and security are key. And not for nothing, you want to make sure that the person you're giving it to really wants it. Our clients are often surprised to find out that their children or loved ones feel differently about items in their collection than expected, and having open conversations about your interests, both as the donor and the recipient, will be better for everyone.

Warren Racusin: Let's touch on a couple of special considerations and legal protections. Art and valuables are not always treated like other property. You need to consider things like intellectual property rights, especially with art. Is there an estate attached to the work that needs to be honored? Are there copyrights to think about? Right, Meg?

Meghan Federman: In terms of legal protection, you want to work with an attorney who specializes in estate planning for high-value items. They can help you draft the necessary documents and make sure your collection is properly integrated into your overall estate plan. They also may provide for a specific fiduciary to handle intellectual property matters that a traditional fiduciary may not be equipped to manage on their own. Further, depending on the value of your collection, you might want to discuss the potential for estate tax implications with your attorney. Some collectibles might require specialized tax treatment to avoid unnecessary taxation when they're passed down. For example, the IRS has what's called an art panel. When someone dies owning collectibles or makes a gift of them, the art panel reviews them to decide whether the value you put on them is correct tax-wise. Therefore, working with an attorney who understands the importance of valuations can be critical for valuable collections.

Warren Racusin: Contrary to what you may think about our friends at the Internal Revenue Service, the people on the art panel actually know what they're doing. So it's important to do your planning with an eye cocked towards the fact that experts are going to be looking at what you've done to decide whether they agree with you or not. The simplest approach to transferring a work of art or collectible during lifetime is simply make an outright lifetime gift or a postmortem bequest of the item. However, the donor has to know that to make an effective completed gift, he or she must actually part with

possession and control of the work. And that can be tough for some emotional reasons. Gifting art or other collectible during life may allow the collector to witness and share in the enjoyment that the gifted property brings to the desired beneficiaries, but it may not be hanging on their wall anymore and a donor's got to be comfortable with that. Right, Meg?

Meghan Federman: That's right. And also, going back to those LLCs we talked about earlier, if the art is owned in the LLC and you die owning some interest in the LLC, you might be able to discount the value of the interest for estate tax purposes. These transfer tax advantages really should be weighed against the income tax consequences, on the other hand. The recipient of a lifetime gift inherits the donor's income tax basis and the opportunity for a basis step up at the death of the donor would be lost.

Warren Racusin: So, if you give away your Matisse, that might get it out of your taxable estate and that might be a good thing. But your children who get it, if they ultimately decide they want to sell the Matisse, they're going to have to pay a capital gains tax on that. In contrast, if you die owning it, it might be subject to estate tax, depending upon your overall situation. But its basis, as we learned previously, gets stepped up to its date of death value. So, if your family subsequently sells it, there won't be a second capital gains tax to pay. So, let's get to the fun part now. Joanne, first, tell us about the craziest item you've ever auctioned off or maybe you've heard about getting auctioned off.

Joanne Mournet: Well, thanks for asking, Warren. There's a lot of surprises in the auction business as you can imagine. At Doyle, our specialists are incredibly thorough. We really take the time to go through each item, whether it's on a shelf, in a drawer, or even propping open a door, because you never know where something valuable might be hiding. We come across a lot of really surprising and fascinating pieces. Last summer, we sold the composer Stephen Sondheim's Estate. Things like gold records were selling for 40 and \$50,000, which isn't really surprising in this market and for someone as famous as Stephen Sondheim and beloved. But what I found stunning was his pencils. So, he used only Blackwing pencils, vintage Blackwing pencils, a brand of pencils. We sold three boxes unused, presumably untouched by Stephen Sondheim, for almost \$6,500. That really was surprising.

Stephen Sondheim was a cat lover. He always had a pet cat, and we sold a very simple pine box with a circular hole in it, which was his cat house is what he called it, and that brought almost \$8,500, a simple pine box because it belonged to Stephen Sondheim.

Warren Racusin: And there was a bidding war on that one, right?

Joanne Mournet: There was a bidding war, and it was quite exciting as the auctioneer really warned, the gallery was packed. We had hundreds of people. And people were taking pictures and videos and clapping and cheering, and really the greatest response came from the sale of that cat house. And I think it's because it showed a sensitive side of Stephen Sondheim. It wasn't about his work, it was about his life. And so, the people there really loved Stephen, and I think that's why they reacted with such warmth and emotion to that particular lot.

- Warren Racusin:** It just shows that there's more than one way to skin a cat. Sorry, it's a terrible joke.
- Joanne Mournet:** Very well done. Iris Apfel, the style icon, we sold her collection in a series of single owner sales a couple of weeks ago actually, and a group of her hairpins sold for over \$60,000. So that was extraordinary as well.
- Warren Racusin:** Was there any of her hair hanging on to them?
- Joanne Mournet:** Not that I noticed, Warren, but that doesn't mean it wasn't there. Another kind of surprise is when you find something in a home that no one knew was there. When we were appraising Consuelo Vanderbilt Earl's home, one of our specialists noticed a doorstop. And he took a closer look at it, he said, "That couldn't be what I think it is." And in fact, it was a Rembrandt Bugatti bronze, very special sculpture of an elephant. We sold it for \$218,000, and the family had no idea it was anything more than a heavy object to prop open the door.
- Warren Racusin:** Amazing. What are the biggest reasons, Joanne, people decide to come to a Doyle Gallery to dispose of their valuables rather than doing it privately by gift or estate planning, the things that Meg and I were chatting about, why do people come to you?
- Joanne Mournet:** Well, I think people come to auction for a couple of reasons. I think transparency is something that's very, very appealing to people. What we handle comes from estates and from death, divorce, and debt. But honestly, just as often it's people whose tastes change and evolve. So, an emerald and diamond necklace that they loved and wore to a gala multiple times every season, now is sitting in a vault and has been for years. They're just not wearing it. And they don't necessarily need the money, but it feels better to pass it along. We have a saying here, which is we only borrow these things. So, for antiques and art and jewelry and all that, you're not going to be the final; it's not the Egyptian times where you were buried with your collections, they're passing through, so each of us is a steward of these things.
- And we saw a big shift during COVID. People were spending so much more time at home, they started editing and really purchasing different furniture, selling furniture and saying, "I never really liked this dining table," or, "It doesn't really work for me anymore." So, a lot of refreshing happened during COVID with people's possessions. And we also, here is, you touched on this earlier I think, Warren, is that people don't want their kids to have to deal with it. So, we give a talk all over the country about what to do with your collections. And the first question we always ask is, "Have you asked your children if they want your things?" And everyone in the audience nods their head yes. And then the next question we ask is, "What did your children say?" And everyone in the audience nods their head no.
- So, things that were very popular and that a certain generation cherish may not be cherished by the next generation, and it's really a gift to give your children the comfort to not want these things, to say, "You know what? I don't love your silver, mom. And you can sell it, mom, or you can keep it, but I'm not going to keep it." And that frees up everybody.

- Warren Racusin:** Tell us about the process a little bit. May comes to you and says, "I really don't like this Renoir and this Monet anymore, I'd like to sell them so I can buy the Vermeer and the Warhol I've had my eye on. How does it work?"
- Joanne Mournet:** As we were just discussing, tastes change, priorities shift, and for a lot of our clients, auction is part of how they evolve their collections to suit their life and the different stages in their life. Sometimes they might inherit a piece of jewelry, a diamond brooch. They don't really wear the brooch, and they might use the money to buy a piece of art they've always wanted, or a piece of jewelry that's more wearable.
- An interesting discovery came with an inquiry about some jewelry. A few years ago, we were looking at a collection, and the client was just about to leave, and she said, "There's a couple of pearls in the bottom of the bag. Would you mind having a look at them?" And our jewelry appraiser almost fainted when he saw them, they were very rare natural pearls. They were called a marvel of nature when we had them evaluated, the pearls had quietly passed down through the families of two prominent Gilded Age industrialists. And to everyone's astonishment they sold for \$3.3 million, setting a new world's record and surpassing the previous one by almost a million dollars. It was very exciting. It was shown that they were actually from a tiara from the Empress Eugenie many, many, many years ago. So that was an exciting discovery.
- So, we hold over 100 auctions a year at Doyle, and many of our clients are both sellers and buyers. They can sell a painting, turn around and purchase a diamond ring, or vice versa. The consignment process usually starts with a simple phone call or an email. You can send us photos, or depending on the property, one of our specialists may come to your home and visit with you. We'll provide estimates, a proposal, and once you decide to move forward, we handle everything. From pickup and photography to global marketing, and of course, the auction itself. For certain pieces and collections, we often preview them in our regional galleries in Palm Beach, Charleston, Boston, Beverly Hills, before they come to New York for a full exhibition and live auction.
- We have exhibitions open to the public almost every weekend, especially in the fall, winter, and spring. People love to see things in person, whether they're ready to buy or just curious. As an auctioneer, I was one of the first female auctioneers in New York, in fact. I can tell you there's really nothing like a live auction. One of my favorite parts of the job is seeing the joy when someone comes to pick up what they've won. We've even had marriage proposals right in the auction room, and if we know about it in advance, we'll have a bottle of champagne waiting.
- Warren Racusin:** And we'll have a prenup ready for them to sign.
- Joanne Mournet:** It's a collaboration, Warren.
- Warren Racusin:** It's a collaborative process. And most importantly, you depend on developing and building relationships, right?
- Joanne Mournet:** Relationships are everything in this business. I'm still working with fiduciaries I met on my very first day at Doyle, and that was a while ago. What's

incredibly meaningful is when families come back to us generation after generation because their first experience was a great one. That kind of long-term trust doesn't happen by accident, it's something we work hard to earn and even harder to keep.

One story that always sticks with me, we were working with a family after an estate appraisal had already been completed by a different firm. During the consignment process, one of our team members was on a ladder retrieving silver from a high shelf when she discovered a manila envelope tucked away behind the silver. It turned out to be a letter written by George Washington to James McHenry. We called in our specialist in American autographs and we had it authenticated, ultimately traced all the way back to McHenry's estate sale in 1859. With a clear line of provenance to the current owner, no one in the family knew it existed. We sold it for \$380,000.

Warren Racusin:

Amazing. Moments like those show why it's so important to have people who know what they're doing in this area, like you and your colleagues at Doyle. Let me tie all this up with one of my usual cautionary notes. You've heard from Meg about how important it is to do planning, both for real world and its tax purposes. You've heard from Joanne about how her people can help you value things properly, handle things properly, dispose of things properly. The one thing that I wouldn't recommend doing is proceeding along the lines that some of our clients ask that say, "Well, I don't really have to report this painting on the return, do I? And if by the time the appraisers get here, this stuff's all left the house, I don't have to do anything about that."

Anyway, my typical response to that is, number one, that failure to file an accurate tax return is a felony, punishable by fine and imprisonment, and we are now going to stop talking about those sorts of questions. So, on that jolly note, thank you so much to Joanne. Thank you for Meg. We've all learned a lot today. Thanks to the folks at Good2bSocial, and the folks at Lowenstein as always who help make these podcasts work and work well. Stay tuned. We'll be back at you really soon for the start of season four. We look forward to seeing you then. Till then, as we say in these parts, have a good one.