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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STEPHAN SETTGAST, an individual;

Plaintiff,

vs.

MAINE MINERAL & GEM MUSEUM, a
Maine Corporation;
DARRYL PITT, an individual;
LAWRENCE STIFLER, an individual;
MARY MCFADDEN, an individual;

Defendant

Case No.:

COMPLAINT FOR:
(1) DECLARATORY RELIEF; AND
(2) BREACH OF CONTRACT
(3) FRAUD IN THE INDUCEMENT

INTRODUCTION

1. This is a civil action seeking a declaratory judgment regarding the possessory rights to a meteorite slab, and for a breach of contract of sale regarding the same meteorite slab.

PARTIES

2. Stephan Settgast ("Settgast") is a permanent resident of Montana and currently resides in the County of Marin, California.

1 3. The Maine Mineral & Gem Museum (“Museum”) is a Maine Corporation, located in
2 Bethel Maine.

3 4. Darryl Pitt (“Pitt”) is an individual who, on good faith and belief, resides in New York.
4 Pitt is an experienced meteorite broker-dealer who was involved in the infamous controversy
5 involving the Willamette Meteorite. A partial biography of Darryl Pitt is attached as Exhibit 1.
6

7 5. Lawrence Stifler, (“Stifler”) is an individual, who, on good faith and belief, resides in
8 Massachusetts.

9 6. Mary McFadden, (“McFadden”) is an individual, who, on good faith and belief, resides
10 in Massachusetts.
11

12 **JURISDICTION AND VENUE**

13 7. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§
14 1332, and the Declaratory Judgment Act, 28 U.S.C. § 2201. The amount in controversy exceeds
15 \$ 75,000.00 and the parties are diverse.
16

17 8. This Court has *in rem* jurisdiction over the disputed property, a meteorite slab, which is
18 located in this judicial district.

19 9. Venue for this action is proper under 28 U.S.C. §1391(b)(2).
20

21 **FACTUAL BACKGROUND**

22 10. Settgast is the owner of a meteorite slab weighing approximately 100 kilograms. Settgast
23 acquired the meteorite slab in 2004. Meteorite values on the international market are estimated
24 to be \$ 40/gram.

25 11. On or about 2014, Settgast and Pitt entered into a contract (Settgast-Pitt Contract) where
26 Pitt would pay Settgast \$425,000.00 in exchange for the meteorite slab. A condition of the
27 Settgast-Pitt Contract was that the meteorite slab be kept in the private collection.
28

1 12. Settcast hired a Kansas City based company to prepare the meteorite slab for sale.

2 13. Pitt and/or Pitt's associates paid Settcast the \$425,000.00 in a series of installment
3 payments. Unbeknownst to Settcast, was that Stifler, McFadden and/or a still unknown third
4 party, were in fact making the payments rather than Pitt.
5

6 14. On or about January 2016, Pitt informed Settcast that rather than a private collector
7 taking possession of the meteorite slab, it was being purchased by Stifler and McFadden for
8 placement in the Museum.
9

10 15. Based on Stifler's representations that the meteorite slab would be in public display,
11 Settcast refused delivery of the meteorite slab.

12 16. Settcast offered to refund the \$425,000.00 to the individual(s) who made the payments.

13 **COUNT I**

14 **DECLARATORY JUDGMENT OF**
15 **TITLE AND OWNERSHIP OF THE METEORITE SLAB**

16 17. Settcast repeats and realleges each of the allegation set forth in paragraphs 1 through 16,
17 and the same are incorporated herein by reference.

18 18. Several parties claiming ownership of the meteorite slab, including but not limited to
19 Settcast, Pitt, Stifler, McFadden, and the Museum.
20

21 19. Settcast contends that \$ 425,000.00 has been paid by Pitt, Stifler, McFadden and/or other
22 third parties, in exchange for title and ownership of the meteorite slab; however, a material
23 condition of that sale was that the meteorite slab be kept in private ownership.
24

25 **COUNT II**

26 **BREACH OF CONTRACT**

27 20. Settcast repeats and realleges each of the allegation set forth in paragraphs 1 through 19,
28 and the same are incorporated herein by reference.

1 21. Settcast entered into a contract with Pitt for the purchase and sale of the meteorite slab. A
2 material condition of that sale was that the meteorite slab was to be placed in a private collection.

3 22. Settcast later learned that the sale of the meteorite slab was to be made to the Museum
4 and not to a private collector.

5 23. Pitt is an experienced collector and broker of meteorite pieces, and had knowledge that
6 keeping the meteorite slab in a private collection was a material condition to the Settcast-Pitt
7 contract.
8

9 24. Pitt breached the Settcast-Pitt contract by not insuring that the person or entity that would
10 display the meteorite slab in a private setting.
11

12 **COUNT III**

13 **FRAUDULENT MISREPRESENTATION**

14 25. Settcast repeats and realleges each of the allegation set forth in paragraphs 1 through 24,
15 and the same are incorporated herein by reference.

16 26. Pitt made a knowingly false representation to Settcast, namely, the meteorite slab would
17 be placed in a private collection.
18

19 27. Pitt made the false representation with the intent to profit from the brokerage of the sale
20 of the meteorite slab, where the meteorite slab would be displayed in a public forum, namely a
21 museum.
22

23 28. Settcast justifiably relied on the representations made by Pitt that the meteorite would be
24 sold to a private collector and not for public viewing. Settcast's reliance was reasonable since
25 Pitt was skilled in the field of meteorite brokering.

26 ///

27 ///

1 29. Settcast has suffered damages in connection with the fraudulent misrepresentation made
2 by Pitt, in that Settcast has expended time and money in connection with the Settcast-Pitt
3 contract.
4

5 **PRAYER FOR RELIEF**

6 **ON ALL COUNTS**

7 1. Settcast seeks declaratory judgment that he alone is the owner, and holds clear title to the
8 meteorite slab;
9

10 2. Settcast seeks declaratory judgment that he has not breached the Settcast-Pitt contract
11 with Pitt and/or any party that is a intended, consequential, or third party beneficiary;

12 3. That this Court direct the disposition of any monies paid to date to Settcast by the
13 Defendants;
14

15 4. An order enjoining Pitt, Stifler, McFadden, the Museum and/or any of their actors,
16 agents, or assigns from removing the meteorite slab;

17 5. An award of Attorney fees if applicable;

18 6. An award of interest and costs of this suit; and,

19 7. Such other and further relief as the Court deems appropriate based on Pitt's
20 misrepresentations to Settcast.
21

22 Dated: February 23, 2016

23 /s/ J. Curtis Edmondson
24 J. Curtis Edmondson
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EXHIBIT 1

Darryl Pitt Webpage

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DARRYL PITT

PHOTOGRAPHY

BIOGRAPHY

METEORITES

LINKS

CONTACT

DARRYL PITT BIOGRAPHY

Darryl Pitt was an editorial photographer before becoming an artist manager and driving force behind the launch of the New Age music phenomenon.

The principal of Depth of Field Management, Pitt represents renowned jazz artists The Bad Plus, Regina Carter, Kurt Elling and Dianne Reeves.

Pitt is also the founder of the Macovich Collection of Meteorites, the world's foremost collection of aesthetic iron meteorites. Institutions that have acquired meteorites from Pitt include the *Natural History Museum* (London), the *American Museum of Natural History* (NYC), the *Academy of Sciences* (Beijing and Moscow) and the *Smithsonian*. In addition, Steven Spielberg, James Taylor, Jerry Bruckheimer, the late William Ziff and art collector Sheikh Saud bin Mohammed al-Thani are among those who have also acquired meteorites with a Macovich provenance—as has *Ripley's Believe It or Not*, which acquired a 1.5 ton meteorite from Pitt.

In the late 80s when few seemed to care for aesthetically shaped meteorites, Pitt traveled the world searching for extraterrestrial *objets d'art*. In his effort to generate public interest in meteorites in the mid 90s, Pitt made select specimens available in the first natural history auctions. For the first time meteorites were photographed as abstract sculpture and the value of meteorites—among the rarest objects on Earth—shot skyward. For years the vast majority of meteorites offered at traditional auction houses had a Macovich imprimatur. *Arts & Antiques* magazine even named a meteorite with a Macovich provenance one of its "100 Top Treasures of the Year," the first time a meteorite was so designated. More significantly, as a result of Pitt's efforts to popularize meteorites, meteorite research has enjoyed an unparalleled boon. The news of Pitt's auction sales became the catalyst for a legion of new meteorite hunters to scour the world's deserts for meteorites—resulting in the recovery of scores of scientifically invaluable meteorites including dozens of new specimens from the Moon and Mars.

The son of a big band musician, Pitt was born in Detroit in 1955. He attended the University of Michigan before moving to New York City where he joined the staff of *Rolling Stone*. Pitt's photographic work has appeared in numerous publications including *Time*, *Newsweek*, *Fortune*, *Playboy*, *Der Spiegel* and *Paris Match*. He was a tour photographer for musicians such as Crosby, Stills & Nash and for several years was the official photographer of the Montreux Jazz Festival. Album cover credits include releases by Ella Fitzgerald, Stevie Ray Vaughn, Dizzy Gillespie and Herbie Hancock. While working in Montreux in 1981, Pitt met and later became the manager of Swiss musician, Andreas Vollenweider, who then sold twelve million albums as he ushered in the era of New Age instrumental music.

In 1984 Pitt became the manager of another photographic subject, Michael Brecker, widely considered the most influential saxophonist since Coltrane and a 15-time Grammy winner. With Pitt's support, Brecker commenced his solo recording career, and the two worked closely until Brecker's death in 2007. In 2000, nearly twenty years after having taken the photos for her debut album, Pitt became the manager of Dianne Reeves, the world's foremost female jazz vocalist.

Pitt had stopped taking photos for nearly eighteen years before he began to photograph flowers in 2005.

In February 2012, teaming with partner Dave Gheesling, Pitt acquired the largest meteorite from the first shower of Martian meteorites to occur in 100 years, which is soon to be a centerpiece exhibit at the Natural History Museum (formerly the British Museum of Natural History). In April 2012, they learned it wasn't the largest meteorite—but then they snagged that one too.