

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FOURTH JUDICIAL DEPARTMENT

Robert Owen Lehman Found., Inc. v. Israelitische Kultusgemeinde
Wien

Robert Owen Lehman Found., Inc., 2026 NY Slip Op 04053 (Supreme Court of the State of New York Appellate Division Fourth Judicial Department 2026) · No. 169 CA 25-00277 · Decided June 26, 2026

SUMMARY

The New York Appellate Division, Fourth Department, affirmed a judgment declaring that the Susan Zirkl Memorial Foundation Trust and its trustee were the rightful owners of a 1917 Egon Schiele portrait. The court held that the trial court's ownership determination was supported by a fair interpretation of the evidence and declined to rely on the alternative laches holding.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
WRITING FOR THE COURT	Bannister, J.P.; Montour, J.; Greenwood, J.; Nowak, J.; Hannah, J.
JURISDICTION	Supreme Court of the State of New York, Appellate Division, Fourth Judicial Department
DECIDED	June 26, 2026
DOCKET	169 CA 25-00277
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment, denominated an order, entered after a nonjury trial that declared the Susan Zirkl Memorial Foundation Trust and Michael D. Lissner, as trustee, to be the rightful owners of the artwork.
STANDARD OF REVIEW	The court viewed the record in the light most favorable to sustaining the judgment and gave due deference to Supreme Court's credibility determinations. In reviewing the nonjury verdict, the court determined whether a fair interpretation of the evidence supported the judgment.
PRECEDENTIAL VALUE	Published
PARTIES	Nava Bar, Robert Rieger Trust, Jacob Barak, as Trustee of the Robert Rieger Trust v. Susan Zirkl Memorial Foundation Trust, Michael D.

TOPICS

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QUESTIONS PRESENTED

1. Whether a fair interpretation of the evidence supported Supreme Court's determination that the Maylander defendants were the rightful owners of the artwork.
2. Whether the Holocaust Expropriated Art Recovery Act of 2025 affected the appellate court's analysis.

HOLDINGS

1. A fair interpretation of the evidence supported Supreme Court's determination that the Maylander defendants were the rightful owners of the artwork; therefore, the judgment was affirmed.
2. The Act did not affect the court's analysis because the court affirmed on the merits rather than on Supreme Court's alternative holding concerning laches.

KEY QUOTATIONS

“Viewing the record in the light most favorable to sustain the judgment and giving due deference to Supreme Court's credibility determinations” ([*1])

“we conclude that, contrary to the Rieger defendants' contention, there is a fair interpretation of the evidence supporting the court's determination that the Maylander defendants are the rightful owners of the artwork” ([*1])

FACTUAL BACKGROUND

The litigation concerned ownership of a portrait painted in 1917 by Austrian artist Egon Schiele of his wife. After a nonjury trial, Supreme Court determined that the Susan Zirkl Memorial Foundation Trust and its trustee, Michael D. Lissner, were the rightful owners of the artwork. The Rieger defendants challenged that determination on appeal.

PROCEDURAL HISTORY

Supreme Court, Monroe County, entered judgment on August 23, 2024, declaring the Maylander defendants the rightful owners of the subject artwork. The Rieger defendants appealed, and the Appellate Division, Fourth Department, unanimously affirmed without costs.

DISPOSITION

affirmed

CASES CITED

- Dennis v Cerrone, 229 AD3d 1116, 1119 (4th Dept 2024)
- Matter of Roth v S & H Grossinger, 284 AD2d 746, 747-748 (3d Dept 2001)

OPINION

Robert Owen Lehman Found., Inc. v. Israelitische Kultusgemeinde Wien 2026 NY Slip Op 04053
PER CURIAM.

Robert Owen Lehman Found., Inc. v Israelitische Kultusgemeinde Wien - 2026 NY Slip Op 04053
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Department Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431.
This decision is uncorrected and subject to revision before publication in the Official Reports.

ROBERT OWEN LEHMAN FOUNDATION, INC., PLAINTIFF-RESPONDENT,
v ISRAELITISCHE KULTUSGEMEINDE WIEN, DEFENDANT, NAVA BAR, ROBERT
RIEGER TRUST, AND JACOB BARAK, AS TRUSTEE OF THE ROBERT RIEGER TRUST,
DEFENDANTS-APPELLANTS, SUSAN ZIRKL MEMORIAL FOUNDATION TRUST AND
MICHAEL D. LISSNER, AS TRUSTEE OF THE SUSAN ZIRKL MEMORIAL FOUNDATION
TRUST, DEFENDANTS-RESPONDENTS. ----- NAVA
BAR, ROBERT RIEGER TRUST AND JACOB BARAK, AS TRUSTEE OF THE ROBERT
RIEGER TRUST, THIRD-PARTY PLAINTIFFS-APPELLANTS, ROBERT OWEN LEHMAN,
THIRD-PARTY DEFENDANT-RESPONDENT. Supreme Court of the State of New York,
Appellate Division, Fourth Judicial Department Decided on June 26, 2026 169 CA 25-00277
Present: Bannister, J.P., Montour, Greenwood, Nowak, And Hannah, JJ. DUNNINGTON
BARTHOLOW & MILLER LLP, NEW YORK CITY (CLAUDIA G. JAFFE OF
COUNSEL), FOR DEFENDANTS-APPELLANTS AND THIRD-PARTY PLAINTIFFS-
APPELLANTS. BAKER & HOSTETLER LLP, NEW YORK CITY (OREN J.
WARSHAVSKY OF COUNSEL), FOR DEFENDANTS-RESPONDENTS. Appeal from a
judgment (denominated order) of the Supreme Court, Monroe County (Daniel J. Doyle, J.),
entered August 23, 2024. The judgment, among other things, declared that defendants Susan Zirkel
Memorial Foundation Trust and Michael D. Lissner, as Trustee of the Susan Zirkel Memorial
Foundation Trust, are the rightful owners of the subject artwork. [*1] It is hereby ORDERED that
the judgment so appealed from is unanimously affirmed without costs. Memorandum: In this
litigation concerning the ownership of a portrait made in 1917 by Austrian artist Egon Schiele of

his wife, defendants-third-party plaintiffs Nava Bar, Robert Rieger Trust, and Jacob Barak, as Trustee of the Robert Rieger Trust (collectively, Rieger defendants) appeal from a judgment, entered following a nonjury trial, that, inter alia, declared that defendants Susan Zirkl Memorial Foundation Trust and Michael D. Lissner, as Trustee of the Susan Zirkl Memorial Foundation Trust (collectively, Maylander defendants) are the rightful owners of the artwork. We affirm. Viewing the record in the light most favorable to sustain the judgment and giving due deference to Supreme Court's credibility determinations (see *Dennis v Cerrone* , 229 AD3d 1116 , 1119 [4th Dept 2024]), we conclude that, contrary to the Rieger defendants' contention, there is a fair interpretation of the evidence supporting the court's determination that the Maylander defendants are the rightful owners of the artwork (see generally *Matter of Roth v S & H Grossinger* , 284 AD2d 746 , 747-748 [3d Dept 2001]). We note that we affirm the court's determination on the merits rather than on its alternative holding with respect to laches, and thus the Holocaust Expropriated Art Recovery Act of 2025 (Pub L 119-82, 140 US [*2] Stat 752 [119th Cong, 2d Sess, Jan. 3, 2026]) does not affect our analysis. We have reviewed the Rieger defendants' remaining contentions and conclude that none warrants reversal or modification of the judgment. Entered: June 26, 2026 Ann Dillon Flynn Clerk of the Court Court Decisions All Court Decisions Official Reports Service Bound Volumes Decision Search Resources RSS Feeds Style Manual Citation Tools Opinion Formatting & Privacy Guidelines Opinion Selection Criteria Legal Research Portal Site Index About About the Law Reporting Bureau About our Operations Contact Us Twitter Quick Contact Info 17 Lodge Street Albany, NY 12207 Phone: (518) 453-6900 Links to or from other sites do not signify endorsement or relationship with them.