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## Arbus Photos Suit Is Settled

by Jeanne Schinto



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Bayo Ogunsanya, a collector and private dealer of African-Americana and other items, said that on February 17 his lawsuit against Robert C. "Bob" Langmuir of Pennsylvania reached an out-of-court settlement. Ogunsanya filed the suit in April 2008 in federal district court in Brooklyn, New York, where he lives. He did so after learning that photos he had sold to Langmuir for \$3500 in 2003 were works by Diane Arbus. The Arbus material was part of a much larger group of photos, notebooks, pamphlets, handbills, and other ephemera that Ogunsanya had bought the previous year at a sale of unclaimed items from a Bronx storage facility.

Langmuir, a rare-book dealer, had planned to sell the photos in April 2008 at Phillips de Pury & Company in New York City. The estimates on the 27 lots ranged from \$20,000/30,000 to \$80,000/120,000 each. But the auction house canceled the sale the day before it was scheduled to take place.

"Private Sale Pending" was the reason stated for the cancellation on the auction house's Web site ([www.phillipsdepur.com](http://www.phillipsdepur.com)). The *New York Times* and other media reports speculated contrarily that the lawsuit had killed it, while others pointed out that Ogunsanya had filed it weeks earlier, so they questioned the timing. A more likely scenario, many observers now believe, is that results on Arbus photo sales at other auctions that week caused Phillips to rethink the size of Langmuir's guarantee. In any case, the photos remain unsold.

Arbus (1923-1971), chronicler of the freakish and strange, made the photos early in her career, from 1958 to 1963. The location was Hubert's Dime Museum and Flea Market, once a celebrated freak show on Manhattan's 42nd Street. The story of how Langmuir came to identify the photos as the work of Arbus is the subject of a book, *Hubert's Freaks: The Rare-Book Dealer, the Times Square Talker, and the Lost Photos of Diane Arbus* by Gregory Gibson.

Ogunsanya (pseudonymed "Okie" in Gibson's book) sold Langmuir the Hubert's archive, along with the Arbus photos, in two batches. In his view, the fact of the two sales was crucial to his lawsuit. It argued that although Langmuir may not have known in the first instance that the photos were by Arbus, he definitely did when making a deal on the second batch.

According to Ogunsanya, the suit dragged on for so many months because Langmuir's lawyers filed motions to dismiss that were denied. Ogunsanya also said he will get "a percentage of the gross sale" when it takes place. The settlement bars him from giving any further financial particulars.

Asked if he was satisfied by the terms, Ogunsanya said, "Yes, this is a success for me. It's a done deal. And it's time for me to move on." He added, "It was a case that [Langmuir] couldn't win, and he probably hurt himself by delaying the settling of it, because of the market. Hopefully, he will be selling them for as much as he can get and soon too. But the economy is what it is."

It's not known at this time if the photos will be sold by Phillips. In the months since the sale's cancellation, controlling interest in the auction house was bought by the Moscow-based Mercury Group.

In an author's note to the paperback edition of *Hubert's Freaks*, released on April 15, Gibson wrote, "Bayo's lawsuit and the disappearing auction were followed by more bad news. An enthusiastic producer who'd been trying to line up Philip Seymour Hoffman to play Bob in a movie version of *Hubert's Freaks* informed us, regretfully, that Phil simply did not have time to take the project on. Bob was philosophical. 'How can we expect Phil to want to play me when I don't even want to play me?'"

Langmuir, when asked for his own comment on his troubles, said, "It's very gracious of you, but I can't say anything, so there you are."

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