

# Modern Arts Notes (blog)

## The Barnes filing

by Tyler Green

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### The Barnes filings, part one

Yesterday a group hoping to keep the Barnes in Montgomery County [filed a petition](#) before the Orphans' Court arguing why Judge Stanley Ott should revisit the case. MAN is the first news outlet to report on the petition. The filing makes a strong argument that the case should be re-examined and that the Philly foundations who want to move the Barnes are behind their self-mandated schedule to move the Barnes, suggest a reason why, and note that Pew in particular may not have been completely honest with the public -- or the court.

Throughout the day **I'll post about four of the key portions of the filing.** First:

The petition points out that subsequent to the 2004 hearings before Judge Ott it [was revealed that](#) Pennsylvania allocated \$107 million in state aid in 2002 for use to build a new Barnes facility in Philadelphia. (The bill was introduced in 2001.) Remarkably, that was just about [the exact amount](#) that the Philly foundations said it would take to build a new Barnes.

The petition argues that if any of the parties to the Barnes move knew of the \$107 million state appropriation that it may have an issue with the court. "The question was raised whether anyone associated with the Barnes or the foundations knew about that information and if they did, if any party had that information and didn't come forward, it would have grave implications," Barnes Friends attorney Mark D. Schwartz told me today. The petition suggests that the court should specifically examine this point.

As Friends of the Barnes noted earlier this year, Pew chief Rebecca Rimel [has been asked](#) if she knew about the appropriation and failed to respond.

**Related:** The Philly [Inky's story](#) and [AP's version](#). Apparently neither had the filing.

### The Barnes filing, part two

[Continuing](#) from this morning's perusal of the Friend of the Barnes' court filing...

The Friends of the Barnes petition's biggest bombshell is its suggestion that Pew president & CEO Rebecca Rimel may have given misleading testimony before Montgomery County Orphans' Court Judge Stanley Ott. It is one of [several claims](#) that Pew and its allies played fast-and-loose with the court.

In December, 2003 Rimel testified before Ott that Pew's application to the IRS for a change from a private to public charity status was "not based on anything that may or may not happen with the Barnes... It has no implications whatsoever."

However, according to the petition, Pew's application to the IRS for public charity status, *filed in December, 2002*, suggests quite a different story. The petition quotes from Pew's IRS submission:

"If [Pew] receives recognition of its public charity status, it will assume the Pew Charitable Trust Division's role in the Barnes Foundation project. As a public charity, [Pew] will be in a position not only to continue the Pew Charitable Trust Division's role in planning and coordinating the project, but also to receive grants and contributions from the Trusts and from other donors, and to hold and administer those funds until the Barnes project is completed. Putting [Pew] in this position presents a significant advantage because it allows [Pew] not only to develop a plan and a vision for the project, but also to raise the funds and then administer the project to ensure that the plan and the shared vision are realized."

Pew did not immediately respond to a request for comment. **UPDATE, Wednesday, 9am:** Still no response from Pew.

### [The Barnes filings, a Philly report](#)

Jim McCaffrey of The Evening Bulletin got his hands on the filing and [has written about it](#). (Note: I've been having some trouble with their website, so that link might not work...)

Posted at 12:58 PM | [permalink](#) | [email this entry](#)

### [The Barnes filing, part three](#)

The Friends of the Barnes petition notes that the Barnes movers are behind on their own timeline for moving the Barnes -- and that there is no end to delays in sight. In 2004 the Barnes' moving crew received permission to expand the Barnes' board to 15 members as a way of professionalizing it and expanding its fundraising capability. Today the Barnes does not have 15 board members. Nearly five years after the initial agreement between the movers and the Barnes and nearly three years after Judge Ott OK'd the move: The Barnes has no Benjamin Franklin Parkway land, no architect, no nothing. (In fact the city is now planning to merely lease land to the Barnes.)

The petition suggests that the movers' ultimate Barnes "endgame" may include housing the Barnes Foundation collection in a place of last resort, such as the Philadelphia Museum of

Art. (The petition notes that this is similar to how the PMA acquired the John E. Johnson collection 65 years ago.)

"My feeling was that the petitioners then told the court whatever it wanted to hear so they'd get out and get the release," Bryn Mawr-based FoB attorney Mark D. Schwartz told me.

"Here we are years later and they went to great ends to say we need a modern board and they don't have a modern board yet."

#### part four

The Friends of the Barnes petition cites the August, 2007 Bulletin of the Philadelphia Museum of Art in a rather damning passage that demonstrates [this item](#) isn't mere paranoia: Private tours of the Barnes will be available this fall for members and guests of the PMA on a day when the Barnes Foundation is usually closed to the public.

**Related:** Parts [one](#), [two](#), [three](#).

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Crystal Bridges offers to split Stieglitz Collection with Fisk

The Tennessean's Jonathan Marx [has the story](#).

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