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**Oct. 19, 2007**

## Judge Asked to Re-Examine Barnes Ruling

by Kathy Matheson

NORRISTOWN, Pa. — The judge who allowed The Barnes Foundation to move its multibillion-dollar art collection to Philadelphia should re-examine his ruling because he was not given accurate information before making the decision, a lawyer said Friday.

Mark Schwartz, the attorney representing opponents of the planned move, asked the judge during a short hearing to reopen the case immediately.

But in a testy exchange, Montgomery County Orphans' Court Judge Stanley Ott said he would wait for both sides to file briefs over the next two months, and then possibly hear arguments later.

"Now is not the day," Ott said. "We're going to do it right."

Schwartz filed a petition in August asking Ott to rescind his 2004 order allowing the financially troubled foundation to move its trove of French impressionist paintings from Lower Merion to Philadelphia's more heavily trafficked museum district, about 6 miles away.

Court approval was needed because Albert Barnes, a pharmaceutical magnate who died in a 1951 car crash, left a will stating that his paintings "remain in exactly the places they are" after his death.

Schwartz's petition was filed on behalf of opponents of the move, led by a group called Friends of the Barnes. It states that new issues have emerged since 2004, including a county proposal to buy the Barnes' land and buildings for \$50 million and lease them back to the foundation.

It also claims that Ott was not told about a 2002 state appropriation of \$107 million for constructing a building for the Barnes collection in Philadelphia.

"Our position is: You were misled," Schwartz told Ott in court Friday.

The foundation's lawyers, who also attended the proceeding, filed preliminary objections to Schwartz's petition this week.

They dispute the availability of the \$107 million, saying it was not an appropriation but simply part of a legislative "wish list."

They also contend that the petitioners \_ including neighbors and former Barnes Foundation students \_ have no legal standing to challenge Ott's ruling.

"This matter is over; it was decided years ago," foundation attorney Ralph Wellington said after the hearing. "Let's move on."

Barnes established his foundation in 1922 to teach populist methods of appreciating and evaluating art. His collection has been housed since 1925 in a 23-room limestone gallery outside Philadelphia.