

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

FILIP SASKA, TOMÁŠ NADRCHAL, and
STEPHEN MICHELMAN,

Plaintiffs,

v.

THE METROPOLITAN MUSEUM OF ART,

Defendant.

Civil Action No. 650775/2013

AMENDED SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into as of the 26th day of February, 2016 by and among Filip Saska, Tomáš Nadrchal, and Stephen Michelman (collectively “Class Plaintiffs”) and The Metropolitan Museum of Art (the “Museum”), a New York nonprofit corporation.

WHEREAS the Museum currently operates pursuant to a “pay what you wish” admission system under which visitors to the Museum’s exhibition halls may pay an admission fee of their choice; and

WHEREAS the Class Plaintiffs in March 2013 commenced a civil action against the Museum (the “Action”) in the Supreme Court of the State of New York (the “Court”) asserting that the Museum’s admission practices, and the manner in which they are communicated to the public, violate New York law and the Museum’s lease with the City of New York; and

WHEREAS the Complaint in the Action asserts claims on behalf of a putative class for

both injunctive and other relief; and

WHEREAS the Class Plaintiffs intend to prosecute the Action vigorously if it cannot be resolved by agreement; and

WHEREAS the Museum denies the material allegations of the Complaint and intends to defend the Action vigorously if it cannot be resolved by agreement; and

WHEREAS the Museum and Class Plaintiffs now wish to resolve the claims and defenses asserted or which could have been asserted in the Action on the terms set forth herein and to stipulate to the entry of an order providing for disposition of all such claims and defenses, without otherwise admitting any issue of fact or law;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and with intent to be legally bound, it is hereby agreed by the Parties, subject to the final approval of the Court and any review of such approval by the appellate courts, as follows:

Settlement Class

1. For the purposes of this settlement only, Class Plaintiffs will seek, and the Museum will not oppose, the Court's certification of a class (the "Settlement Class") defined as follows:

All persons who, at any time from March 5, 2007 to the date of final approval of the Settlement Agreement, paid for either (i) admission to the exhibition halls of The Metropolitan Museum of Art (in person, online, or through a third party vendor, in any location, using any form of payment) or (ii) a Metropolitan

Museum of Art membership.

2. The Parties stipulate and agree that the definition of the proposed class in paragraph 101 of the Complaint in the Action shall be amended to be the same as the Settlement Class, and that the Court's orders preliminarily and finally approving this Settlement Agreement shall so amend the Complaint.

3. Plaintiffs will seek, and the Museum will not oppose, the Court's appointment of Emery Celli Brinckerhoff & Abady LLP as counsel for the Settlement Class ("Class Counsel"), and the appointment of Plaintiffs Filip Saska, Tomáš Nadrchal, and Stephen Michelman as representatives of the Settlement Class.

Settlement Consideration

4. Subject to the termination rights and other conditions stated in this Settlement Agreement, Class Plaintiffs and the Museum agree, as consideration for the settlement of the Action as described herein, that they will jointly propose to the Court the entry of a Judgment in substantially the form annexed hereto as Exhibit A.

Release of Claims

5. The "Releasing Parties" in this Settlement Agreement include the (i) Class Plaintiffs and their respective heirs, executors, administrators, trustees, successors, assigns, and representatives, and (ii) all other members of the Settlement Class and their respective heirs, executors, administrators, trustees, successors, assigns, and representatives.

6. The Releasing Parties hereby, upon the Court's final approval of this Settlement Agreement, expressly and irrevocably waive and fully, finally, and forever settle, discharge, and release the Museum from any and all manner of claims, demands, actions, suits, and causes of

action, whether individual, class, representative, or otherwise in nature, whether known or unknown, suspected or unsuspected, for injunctive relief as to all Releasing Parties and for all forms of relief as to the Class Plaintiffs, that any Releasing Party ever had, now has, or hereafter can, shall, or may have, arising out of or relating in any way to the Museum's admission practices or its communications with the public concerning those practices, as follows:

- a. The three individually named Class Plaintiffs release all claims of any nature, whether for equitable relief, money damages, or attorneys' fees and expenses.
- b. All other members of the Settlement Class release only claims for equitable relief and for attorneys' fees and expenses incurred in connection with the prosecution of their claims for equitable relief, and shall not be deemed to have settled, discharged or released the Museum from any claim for monetary damages. The claims released pursuant to this subparagraph and subparagraph a. are collectively referred to as "Released Claims."

7. Each Releasing Party further expressly and irrevocably waives and fully, finally, and forever settles and releases, upon the Court's final approval of this Settlement Agreement, any and all defenses, rights, and benefits that the Releasing Party may have or that may be derived from the provisions of applicable law which, absent such waiver, may limit the extent or effect of the release contained in the preceding paragraph.

8. The Releasing Parties hereby covenant and agree that they shall not hereafter seek to establish liability against the Museum based, in whole or in part, upon any of the Released

Claims.

Preliminary Court Approval

9. Class Plaintiffs and the Museum agree to use reasonable and good faith efforts to effectuate preliminary Court approval of this Settlement Agreement, including filing necessary motion papers and scheduling a date and time for any necessary hearings that are mutually convenient for the Court, Class Plaintiffs, and the Museum.

10. Class Plaintiffs and the Museum agree to effectuate the Court's entry of an order (the "Preliminary Approval Order"), in the form of Exhibit B hereto, to:

- a. Preliminarily approve this Settlement Agreement.
- b. Approve the provisional certification of the Settlement Class for settlement purposes only, and declare that in the event of termination of this Settlement Agreement as provided below, certification of the Settlement Class shall automatically be vacated and the Museum may fully contest certification of any class as if no Settlement Class had been certified.
- c. Appoint Emery Celli Brinckerhoff & Abady LLP as Class Counsel.
- d. Determine that the Publication Notice in the form of Exhibit C and Notice Plan described in Exhibit D are fair, adequate, and sufficient, constituting the best practicable notice under the circumstances, and are reasonably calculated to reach members of the Settlement Class and apprise them of this Action, the terms and conditions of the Settlement Agreement, and

their rights under the Settlement Agreement.

- e. Approve the procedures described in the Notice for members of the Settlement Class to object to this Settlement Agreement.
- f. Schedule a final approval hearing (the “Final Approval Hearing”), for a time, date, and place mutually convenient for the Court, Class Plaintiffs, and the Museum and at least 95 days after the Court’s entry of the Preliminary Approval Order, at which the Court will conduct an inquiry into the fairness of this Settlement Agreement and determine whether the settlement should be finally approved.
- g. Stay all proceedings in the Action as between Class Plaintiffs and the Museum, except those related to effectuating and complying with the Settlement Agreement, pending the Court’s determination of whether the Settlement Agreement should be finally approved.

Notice Procedures

11. As soon as practicable following entry of the Court’s Preliminary Approval Order, Class Counsel shall cause the Publication Notice to be placed on the dedicated website for this Action, www.metfees.com (the “Settlement Website”), and the Museum shall (i) cause the Publication Notice to be placed in such publications and with such frequency as is described in Exhibit D hereto, in accordance with the Plan for Publication Notice, and (ii) concurrently place on the home page of the Museum’s public website a banner with a link to the Settlement Website in the form attached as Exhibit E. The Settlement Website will provide notice of the date and time that the Court sets for a hearing on final approval of this Settlement Agreement, and clearly

displayed links to complete copies of the following materials:

- a. This Settlement Agreement and its exhibits.
- b. The Court's order granting preliminary approval of this Settlement Agreement.
- c. The Complaint.
- d. The October 30, 2013 decision of the Court.
- e. The February 5, 2015 decision of the Appellate Division.

12. As explained in the Publication Notice, any member of the Settlement Class may object to this Settlement Agreement. Any member of the Settlement Class who wishes to assert such an objection (an "Objector") must send to Class Counsel and counsel for the Museum, by first class mail and postmarked not later than 45 days prior to the date set for the Final Approval Hearing, a written statement of objections. That statement must (i) state the full name and address and telephone number of the Objector, (ii) provide information sufficient to establish that the Objector is a member of the Settlement Class, (iii) state the full name and address and telephone number of any counsel representing the Objector in connection with the objections, (iv) describe all objections of the Objector and the specific reasons therefor (including legal support that the Objector wishes to bring to the Court's attention), and (v) attach any affidavits or other evidence relied upon in support of the objection. Prior to the Final Approval Hearing, Class Counsel shall e-file with the Court all written statements of objection received.

13. At or before the time when a motion for final approval is filed, Class Counsel and

counsel for the Museum shall notify the Court in writing that the Notice Plan was carried out and that the website notice, publication notice, and any other notice was provided in the manner directed by the Court.

Final Court Approval

14. Class Counsel and counsel for the Museum will move for the Court to enter a Judgment and Order Granting Final Approval of Settlement (the “Judgment” and the “Order Granting Final Approval”), in the form of Exhibits A and F hereto, which will:

- a. Determine that the Court has personal jurisdiction over Defendants and all members of the Settlement Class, and jurisdiction to finally approve this Settlement Agreement.
- b. Finally approve this Settlement Agreement, including its release provisions, and find that the Settlement Agreement was made in good faith, following arm’s-length negotiations, and was not collusive, and further find that the Settlement Agreement is fair, reasonable, and adequate for the Settlement Class.
- c. Define the Settlement Class and finally certify it for settlement purposes only, and declare that in the event of termination of this Settlement Agreement, certification of the Settlement Class shall automatically be vacated and the Museum may fully contest certification of any class as if no Settlement Class had been certified.
- d. Approve the notice provided to the Settlement Class as fair, adequate, and

sufficient, as the best practicable notice under the circumstances, and as reasonably calculated to apprise members of the Settlement Class of the Action, this Settlement Agreement, and their objection rights, and as fully satisfying the requirements of CPLR 904, and any other applicable laws or rules of the Court, and due process.

- e. Incorporate all terms and conditions of this Settlement Agreement by reference, and state the settlement consideration and full terms of the release.
- f. Provide that the Court retains continuing jurisdiction over the Settlement Class and the Museum to implement, administer, consummate, and enforce this Settlement Agreement, and the Judgment and the Order Granting Final Approval.
- g. Dismiss the claims for money damages asserted in the First Cause of Action with prejudice as to the three individually named Class Plaintiffs but without prejudice as to all other members of the Settlement Class, and without costs except as provided herein.
- h. Direct that the Released Claims asserted in the Action on behalf of the three individually named Class Plaintiffs and members of the Settlement Class are otherwise dismissed with prejudice and without costs except as provided herein.
- i. Enter a final injunction incorporating the terms of the consent decree

stated in paragraph 15, below.

Terms of Consent Decree

15. In consideration of and subject to all other terms of this Settlement Agreement, and without admission of liability, the parties agree to consent to the entry of a final injunction (the “Consent Decree”) as follows:

- a. **Disclosures of “pay what you wish” admissions policy**—During the term of the Consent Decree, the Museum shall provide disclosures (“Pay What You Wish Disclosures”) of its “pay what you wish” admissions policy in the following manner:
 - i. The Museum will maintain a sign or signs plainly visible to visitors approaching the ticket cashiers informing visitors of the Museum’s “pay what you wish” admissions policy and the suggested admission amounts by each category of visitor. Such sign(s) will disclose the Museum’s “pay what you wish” admissions policy in a manner substantially similar to Amended Exhibit G hereto, it being agreed that signage with identical content in the same order and spacing, and in the same relative type font sizes, and with the same prominence of display and prominence of placement as disclosures currently in use, shall be “substantially similar” regardless of other changes in the design or presentation.
 - ii. The Museum’s website will disclose the Museum’s “pay what you wish” admissions policy in a manner substantially similar to

Amended Exhibit H hereto, it being agreed that disclosure of the admissions policy with identical content in the same order and spacing, and in the same relative type font sizes, with the same prominence of display and prominence of placement as disclosures currently in use, shall be “substantially similar” regardless of other changes in the design or presentation.

- iii. The Museum’s on-site ticket kiosks and the first screens of the transaction pages will disclose the Museum’s “pay what you wish” admissions policy in a manner substantially similar to Exhibit I hereto, it being agreed that disclosure of the admissions policy with identical content in the same order and spacing, and in the same relative type font sizes, with the same prominence of display and prominence of placement as disclosures currently in use, shall be “substantially similar” regardless of other changes in the design or presentation.

- b. **Third party websites**—The Museum will include a provision in its contracts with CityPass, New York Pass, Explorers Pass and NYCitAll Pass (“Third Party Vendors”) that each Third Party Vendor shall disclose the Museum’s “pay what you wish” admissions policy, such that purchasers can reasonably have been notified of such policy prior to purchasing a product which includes admission to the Museum. The Museum will use commercially reasonable efforts to enforce such contract provisions.

- c. **Future changes in suggested admission amounts**—The Museum may change the amounts of the suggested admission amounts under the existing “pay what you wish” admissions policy. If it does so, it may change the amounts of the suggested prices shown on its Pay What You Wish Disclosures. Any such change, if limited to changing the amounts of the suggested prices, will not require the consent of the Class Plaintiffs or the approval of the Court.
- d. **Staff training/ evaluation**—The Museum will (i) not evaluate Visitor Services staff according to individual sales amounts, and (ii) provide Visitor Services staff with introductory training and quarterly refresher training programs on the “pay what you wish” policy and procedures for explaining that policy to visitors. Such procedures shall require that each cashier state that visitors may pay any amount they choose and ask how much visitors would like to pay , and that Visitor Services staff working as “line-busters” explain to visitors that they may pay less than the full suggested admission amount at the cashier’s desk if they continue waiting in line.
- e. **Future changes in Museum admission policy**—The Museum may, without seeking consent of the Class Plaintiffs or approval of the Court, change its admissions policy to charge some or all visitors mandatory admission fees (*i.e.*, fees charged on a basis other than the “pay what you wish” system), subject to any required governmental approvals. Any such change shall be deemed an “Admissions Policy Change.” The Museum

will announce any Admissions Policy Change by means of a press release, with a copy provided simultaneously to Class Counsel, at least 30 days before the effective date of the Admissions Policy Change.

f. **Revised disclosures following changes in Museum admission policy—**

Immediately upon the effective date of any Admissions Policy Change, the Museum may revise the signs at the entrances to the Museum, the Museum’s web site, and communications with Third Party vendors (all such revisions being referred to as “Revised Disclosures”) to reflect the Admissions Policy Change.

- g. **Court review and approval of Revised Disclosures—**Within 30 days after the effective date of any Admissions Policy Change, the Museum will apply to the Court, with notice to Class Counsel, for an order concerning application of the Consent Decree to the Revised Disclosures describing such Admissions Policy Change. If the Admissions Policy Change provides for a “pay what you wish” policy for some class or classes of visitors, the Court will review the Revised Disclosures and shall approve them if they disclose the availability of “pay what you wish” admission to such visitors in a manner substantially similar to the terms of paragraphs 15.a.i.-iii., above, governing Pay What You Wish Disclosures. On any such motion the Museum, as movant, shall bear the burden of persuading the Court that no such conflict or incompatibility exists. If the Admissions Policy Change does not provide for a “pay what you wish” policy for any class of visitors, the Court will enter an order stating that

the Consent Decree is inapplicable to such Revised Disclosures.

- h. **Availability of “pay what you wish” admission**—During the term of the Consent Decree, so long as the Museum’s admissions policy permits some or all visitors to enter the Museum’s exhibition halls on a “pay what you wish” basis, the Museum will ensure that eligible visitors are provided with a reasonable opportunity to purchase admission at the public entrance to the Museum for less than the full suggested admission fee if they choose.
- i. **Duration of consent decree**—The Consent Decree, once entered, shall remain in effect until 78 months after the date of execution of this Settlement Agreement. Upon the expiration of that time, the Consent Decree shall, without further order of the Court, expire and be of no further force or effect.

Attorneys’ Fees and Expenses

16. Upon entry of Final Approval of this Settlement Agreement by the Court, Class Counsel may apply to the Court for an award of attorneys’ fees and expenses to be paid by the Museum. So long as the total aggregate amount sought does not exceed \$350,000, the Museum agrees not to oppose such application or to argue that the amount sought is unreasonable. The Museum shall not be required to pay any attorneys’ fees and expenses until either (i) all deadlines for any person to seek appellate review of the order granting Final Approval of this Settlement Agreement have elapsed without such review having been sought, or (ii) all possible appeals from such order have been concluded and the order has been affirmed without

substantial modification.

Incentive Payments to Class Plaintiffs

17. The Museum agrees to make an incentive payment of \$1,000 each (\$3,000 total) to the three Class Plaintiffs in consideration for their services as Class Plaintiffs and their release of their individual claims for damages. Payment shall be made by check payable to Class Counsel as attorneys for each Class Plaintiff and shall be delivered to Class Counsel. The Museum shall not be required to pay such incentive payments until either (i) all deadlines for any person to seek appellate review of the order granting Final Approval of this Settlement Agreement have elapsed without such review having been sought, or (ii) all possible appeals from such order have been concluded and the order has been affirmed without substantial modification.

Termination

18. This Settlement Agreement may be terminated only as provided below. Termination shall be effected by written notice to all parties and the Court within ten business days after the event giving rise to the termination:

- a. Any party may terminate if the Court does not enter any of the following in substantially the form attached, or subsequently seeks to modify significantly any such documents: (i) the Preliminary Approval Order attached as Exhibit B hereto, and (ii) the Judgment and the Order Granting Final Approval attached as Exhibits A and F hereto.
- b. Any party may terminate this Settlement Agreement if the Court's Preliminary Approval Order, the Court's Judgment, or the Court's Order

Granting Final Approval are not substantially affirmed or are significantly modified on any appeal.

19. In the event of termination of this Settlement Agreement:

- a. This Settlement Agreement shall be null and void, and of no force and effect, except as provided in this paragraph 19 and in paragraphs 24, 25, and 26 below.
- b. Any certification of the Settlement Class by the Court for settlement purposes will automatically be vacated. The Class Plaintiffs, and all members of the putative class, will retain all claims as if this Settlement Agreement had not been entered into. The Museum will retain all defenses to certification and its non-opposition to the Settlement Class for settlement purposes only shall not be used as evidence, and shall not be admissible as such, in support of class certification in the Action or any other civil action or proceeding.
- c. Class Plaintiffs and the Museum shall revert to their positions prior to the execution of the original Settlement Agreement, including with respect to the appropriateness of class certification, as if no Settlement Agreement in this Action had been reached or executed.

Continuing Jurisdiction

20. During the term of the Consent Decree, the Court will retain continuing jurisdiction over the Class Plaintiffs, the Settlement Class, and the Museum to implement,

administer, consummate, and enforce this Settlement Agreement and the Judgment and the Order Granting Final Approval.

21. Class Plaintiffs, the Settlement Class, and the Museum hereby irrevocably submit to the exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement or the Judgment and the Order Granting Final Approval.

22. In the event that the provisions of this Settlement Agreement or the Judgment and the Order Granting Final Approval are asserted by the Museum as a defense in whole or in part to any claim or cause of action or otherwise raised as an objection in any other suit, action, or proceeding by a Class Plaintiff or member of the Settlement Class, it is hereby agreed that the Museum may seek, and that Class Plaintiffs will not oppose, a stay of that suit, action, or proceeding until the Court has entered an order or judgment determining any issues relating to the defense or objections based on such provisions.

Additional Terms and Conditions

23. Plaintiffs, the Settlement Class, the Museum, and their respective counsel shall execute all documents and perform any additional acts reasonably necessary and proper to effectuate the terms of this Settlement Agreement and to obtain the benefit of this Settlement Agreement for Plaintiffs, the Settlement Class, and Defendants.

24. The Museum specifically denies any and all liability in this Action. It is expressly understood and agreed that the Museum, by entering into this Settlement Agreement, is not admitting any liability or wrongdoing and is not admitting the truth of any allegations or circumstances, and is not waiving any defense or affirmative defense.

25. This Settlement Agreement, and all negotiations, documents, and discussions associated with it, shall not be construed as, or deemed to be, evidence of any admission of any liability or wrongdoing on the part of the Museum or any of the Released Parties, or of the truth or merit of any allegations or claims in the Action, or evidence of any admission on the part of Class Plaintiffs and the Settlement Class that their potential claims lack merit, and shall not be offered or accepted as evidence of such in any litigation, arbitration, or other proceeding; provided, however, that nothing contained herein shall preclude use of this Settlement Agreement in any proceeding to enforce this Settlement Agreement.

26. At any time prior to the Final Approval of this Settlement Agreement, the Museum may in its discretion change its practices with respect to admission fees and the communication of those practices to conform to all or part of the provisions of the proposed Consent Decree. The parties agree that in the event the Settlement Agreement does not receive Final Approval (or such Final Approval is reversed on appeal) or is terminated for any reason, the Museum's decision to adopt such changes prior to Final Approval will not be admissible in evidence to prove that the Museum's prior practices were unlawful or tortious.

27. If any notice is required to be given under the terms of this Settlement Agreement, it shall be provided in writing and sent via e-mail and overnight mail to the following:

For Class Plaintiffs:

Andrew G. Celli, Jr., Esq.
Emery Celli Brinckerhoff & Abady LLP
600 Fifth Avenue at Rockefeller Center
New York, NY 10019
acelli@ecbalaw.com

For the Museum:

Sharon H. Cott, Esq.
Senior Vice President, Secretary & General Counsel
The Metropolitan Museum of Art
1000 Fifth Avenue
New York, NY 10028-0198
Sharon.Cott@metmuseum.org

With a copy to:

Bruce R. Kelly, Esq.
Arnold & Porter LLP
399 Park Avenue
New York, NY 10022
Bruce_Kelly@aporter.com

28. This Settlement Agreement, together with its exhibits, constitutes the entire agreement between the parties with regard to the subject matter hereof. This Settlement Agreement may not be modified or amended except by a writing signed by all signatories hereto or their successors-in-interest.

29. It is understood and agreed that this Settlement Agreement shall be construed without regard to any presumption or other rule requiring construction against the party causing the document to be drafted. Each Party is entering into this Settlement Agreement voluntarily, without duress, with the consultation and advice of its legal counsel, and with full understanding of its terms.

30. This Settlement Agreement shall be interpreted and construed in accordance with the laws of the State of New York, without regard to the conflict of laws jurisprudence of the State of New York that would result in the application of the laws of any other jurisdiction.

31. This Settlement Agreement shall bind and inure to the benefit of the respective

heirs, personal representatives, successors and assigns of the Parties.

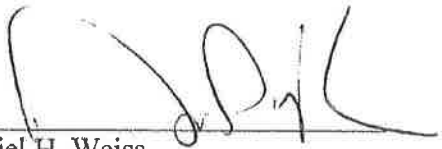
32. This Settlement Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same Agreement. Executed signature pages for this Settlement Agreement may be delivered by facsimile or email and such facsimiles or emails shall be deemed as if actual signature pages had been delivered.

IN WITNESS WHEREOF, the signatories have read and understood this Settlement Agreement, have executed it, represent that the undersigned are authorized to execute this Settlement Agreement on behalf of their respectively represented parties, have agreed to be bound by its terms, and have duly executed this Settlement Agreement.

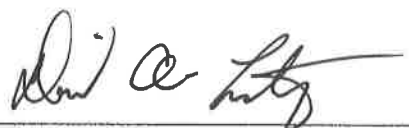
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30th ~~22~~ June ~~10~~
AGREED to as of the 26th day of February, 2016

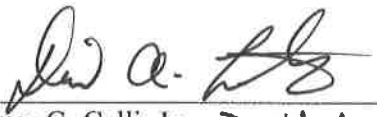
THE METROPOLITAN MUSEUM OF ART

By: 
Daniel H. Weiss
President

FILIP SASKA

By: 
~~Andrew G. Celli, Jr.~~ David A. Lebowitz
Attorney in Fact

TOMÁŠ NADRCHAL

By: 
~~Andrew G. Celli, Jr.~~ David A. Lebowitz
Attorney in Fact

STEPHEN MICHELMAN


By: 
~~Andrew G. Celli, Jr.~~ David A. Lebowitz
Attorney in Fact

EXHIBIT A -- FORM OF PROPOSED JUDGMENT

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

FILIP SASKA, TOMÁŠ NADRCHAL, and
STEPHEN MICHELMAN,

Plaintiffs,

v.

THE METROPOLITAN MUSEUM OF ART,

Defendant.

Civil Action No. 650775/2013

[PROPOSED] JUDGMENT

This matter came before the Court on _____, 2016, for a hearing on the application of the Parties for final approval of the settlement set forth in the Settlement Agreement. Due and adequate notice has been given to the Settlement Class. The Court has considered all papers filed and proceedings conducted in this action, including both the arguments of the Parties and the objections to the Settlement Agreement presented in writing or orally at the above hearing.

The Court, being otherwise fully informed, and good cause appearing therefor, having found in its _____, 2016 Order Granting Final Approval of Settlement found that the Settlement Agreement is in all respects fair, reasonable and adequate, certified the Settlement Class defined therein, amended the Complaint as provided therein, and finally approved the Settlement Agreement, including its payment and release provisions.

Accordingly, in light of the Order Granting Final Approval of Settlement, the terms of which are hereby incorporated as if fully set forth herein, and good cause appearing, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. All claims of the Settlement Class Members for money damages pleaded in the First Cause of Action are dismissed without prejudice and without costs.

2. Defendant is enjoined as provided in the Consent Decree in paragraph ____ of the Order Granting Final Approval of Settlement.

3. Defendant shall pay \$1,000 to each of the Class Plaintiffs as an incentive award for their service to the Settlement Class. Any proceedings for execution are stayed pending appeal.

4. Defendant shall pay \$350,000.00 [if approved by the Court; Defendant has agreed not to oppose an application not exceeding that amount] to Class Counsel as attorneys' fees and expenses for the prosecution of this action. Any proceedings for execution are stayed pending appeal.

5. Except as stated above, Judgment is hereby entered that Plaintiff and the Settlement Class Members take nothing from Defendant other than as set forth in the Order Granting Final Approval of Settlement, and that Class Plaintiffs and the Settlement Class Members release all claims as set forth in the Order Granting Final Approval of Settlement and the Settlement Agreement.

6. Without affecting the finality of this Judgment in any way, this Court hereby retains continuing jurisdiction, as provided in the Order Granting Final Approval of Settlement, including over: (a) implementation of the Settlement Agreement and any disputes relating to the Settlement Agreement, and (b) all Parties hereto solely for the purpose of enforcing, and administering the Settlement Agreement.

IT IS SO ORDERED.

DATED: _____, 2016

J.S.C.

Submitted by:

EMERY CELLI BRINCKERHOFF & ABADY
LLP

Andrew G. Celli, Jr.
600 Fifth Avenue at Rockefeller Center
10th Floor
New York, NY 10019
Telephone: (212) 763-5040
Facsimile: (212) 763-5001

*Attorneys for Plaintiffs
and the Settlement Class*

ARNOLD & PORTER LLP
Bruce R. Kelly
399 Park Avenue
New York, NY 10022-4690
Telephone: (212) 715-1000
Facsimile: (212) 715-1399

Attorneys for Defendant

EXHIBIT B -- PROPOSED ORDER GRANTING PRELIMINARY APPROVAL

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

FILIP SASKA, TOMÁŠ NADRCHAL, and
STEPHEN MICHELMAN,

Plaintiffs,

v.

THE METROPOLITAN MUSEUM OF ART,

Defendant.

Civil Action No. 650775/2013

**[PROPOSED] ORDER
PRELIMINARILY APPROVING
SETTLEMENT AND PROVIDING FOR
NOTICE TO THE SETTLEMENT
CLASS**

An application has been made pursuant to CPLR 908 for an order preliminarily approving the settlement of this action as between Filip Saska, Tomáš Nadrchal, and Stephen Michelman (collectively “Class Plaintiffs”) and the Metropolitan Museum of Art (the “Museum”) pursuant to the Settlement Agreement dated February, 2016 and its Exhibits attached as Exhibit 1 hereto, which sets forth the terms and conditions for a proposed settlement of the action and the disposition of all claims against the Museum pleaded in the Complaint.

The Court has read and considered the Settlement Agreement and its Exhibits, as well as all papers filed in connection with the application for its approval, and has heard the oral argument of counsel. Based thereon, and good cause appearing therefor,

IT IS HEREBY ORDERED as follows:

1. This Preliminary Approval Order incorporates by reference the definitions in the

Settlement Agreement, and all terms used herein shall have the same meanings as set forth in the Settlement Agreement.

2. The Court has subject matter and personal jurisdiction over Plaintiffs, all members of the Settlement Class defined below, and Defendants.

3. The Court preliminarily approves the Settlement Agreement, including its payment and release provisions, as within the range of possible final approval and warranting the provisional certification of the Settlement Class defined below, subject to further consideration at the Final Approval Hearing described below.

4. Pursuant to CPLR 902 the Court hereby provisionally certifies, solely for the purposes of effectuating the settlement contemplated in the Settlement Agreement, a Settlement Class defined as follows:

All persons who, at any time from March 5, 2007 to the date of final approval of the Settlement Agreement, purchased either (i) admission to the exhibition halls of the Metropolitan Museum of Art (in person, online, or through a third party vendor, in any location, using any form of payment) or (ii) a Metropolitan Museum of Art membership.

5. The Court finds and concludes that the Settlement Class meets the class action criteria of CPLR 902. But in the event of termination of the Settlement Agreement as provided therein, certification of the Settlement Class shall automatically be vacated without any further action by the Court, and the Museum may fully contest certification of any class in this action or any other action or proceeding as if no Settlement Class had been certified.

6. The definition of the proposed class in paragraph 101 of the Complaint is hereby amended to be the same as the Settlement Class defined above.

7. The Court finds and concludes that Plaintiffs will fairly and adequately represent and protect the interests of the Settlement Class, and may serve as representatives of the Settlement Class.

8. The Court appoints the firm of Emery Celli Brinckerhoff & Abady LLP to serve as Class Counsel.

9. The Court determines that the Publication Notice in the form of Exhibit C to the Settlement Agreement and Notice Plan described in Exhibit D to the Settlement Agreement are fair, adequate, and sufficient, constituting the best practicable notice under the circumstances, and are reasonably calculated to reach all or a substantial percentage of the members of the Settlement Class and apprise them of this action, the terms and conditions of the Settlement Agreement, and their rights under the Settlement Agreement. The Court directs that notice in the form prescribed be given to the members of the Settlement Class in accordance with the Notice Plan.

10. The Final Approval Hearing on the Settlement Agreement shall be held on _____, 2016 at Room 228 of the Supreme Court of the State of New York, New York County, at 60 Centre Street, New York, NY 10007. At that Final Approval Hearing, the Court will consider the fairness of the Settlement Agreement, determine whether the Settlement Agreement was made in good faith and should be finally approved as fair, reasonable and adequate, and determine whether the Judgment and the Order Granting Final Approval in Exhibits A and F to the Settlement Agreement should be entered.

11. Any member of the Settlement Class may object to this Settlement Agreement (be an “Objector”). Such an Objector must file with the Court and send to Class Counsel and

counsel for the Museum, by first class mail and postmarked not later than _____, 2016 (45 days prior to the date set for the Final Approval Hearing), a written statement of objections. That statement must (i) state the full name and address and telephone number of the Objector, (ii) provide information sufficient to establish that the Objector is a member of the Settlement Class, (iii) state the full name and address and telephone number of any counsel representing the Objector in connection with the objection, (iv) describe all objections of the Objector and the specific reasons therefor (including legal support that the Objector wishes to bring to the Court's attention), and (v) attach any affidavits or other evidence relied upon in support of the objection. In addition, any Objector or counsel for an Objector that desires to appear at the Final Approval Hearing must file with the Court and mail to Class Counsel and counsel for the Museum, by first class mail and postmarked no later than 45 days before the date set for the Final Approval Hearing, a separate notice of intention to appear and any affidavits or other papers in support of the objection. Counsel for the parties shall be permitted to file and serve any response no later than 10 days before the date set for the Final Approval Hearing. No reply papers will be received.

12. All other motions and papers filed in support of final approval of the Settlement Agreement shall be filed no later than seven calendar days prior to the Final Approval Hearing. The Court may continue the Final Approval Hearing without further notice to the Settlement Class.

13. The Court retains jurisdiction to consider all further applications arising out of or relating to the Settlement Agreement. The Court may approve the Settlement Agreement with such modifications as may be agreed to by Class Plaintiffs, on behalf of themselves and the Settlement Class, and the Defendants, if appropriate, without further notice to the Settlement

Class.

14. Pending determination of whether the Settlement Agreement should be finally approved, (i) all discovery is stayed, and (ii) all other proceedings in the Action as between Plaintiffs and Defendants, except those related to effectuating or complying with the Settlement Agreement, also are stayed.

IT IS SO ORDERED.

DATED: _____

J.S.C.

Submitted by:

EMERY CELLI BRINCKERHOFF & ABADY
LLP

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Attorneys for Defendant

**EXHIBIT C -- PROPOSED FORM OF
PUBLICATION NOTICE**

Legal Notice

**NOTICE OF CLASS ACTION
SETTLEMENT HEARING**

**METROPOLITAN MUSEUM OF ART
ADMISSIONS CLAIM**

This Notice is to inform all persons who purchased either admission to the Metropolitan Museum of Art (the “Museum”) or a membership in the Museum on or after March 5, 2007 of a proposed Settlement of a class action brought against the Museum on your behalf in the Supreme Court of the State of New York.

The lawsuit alleges that the Museum’s disclosures of its current admission fee policy violate consumer protection laws by not adequately disclosing to visitors that they may enter the Museum upon payment of an amount of their choice (“pay what you wish”). The Museum denies those allegations.

The parties have agreed to a proposed settlement under which the Museum, without any concession, finding of wrongdoing, or agreement regarding the adequacy or inadequacy of the current disclosures, will revise its signs, website, and other disclosures of its “pay what you wish” admission fee policy. No money will be paid to class members, and no adjudication of any claims for money damages they may have will occur.

The Court will hold a hearing on approval of the Settlement on _____, 2016, in Courtroom 228, 60 Centre Street, New York, NY 10007. Any class member may present objections he or she has to the Settlement.

You may learn more about the Settlement and procedures for objecting to it at [www._____](http://www._____.). Questions may be directed to Class Counsel, whose address is given on that website. PLEASE DO NOT

CONTACT THE COURT.

D , 2016
Published by order of the Supreme Court, New York
County

EXHIBIT D -- PLAN FOR PUBLICATION NOTICE

Notice of hearing on the proposed settlement, in the form shown as Exhibit C to the Settlement Agreement (except on the Museum website where an announcement in the form of Exhibit D will be used, with a link to the Settlement Website), will be published in the following media with the following frequency:

New York Times national edition	Twice a week (one weekend, one weekday) for two weeks
New York Daily News	Twice a week (one weekend, one weekday) for two weeks
AM New York, Metro New York, Community News Group ((including The Brooklyn Paper, NYC Community Media [Manhattan], Gay City News, TimesLedger Newspapers (Queens), Caribbean Life, Bronx Times/Bronx Times reporter)	Twice a week (one weekend, one weekday) for two weeks in those papers that are published daily; two consecutive weekly editions for those published weekly
Online at the Museum website	Two weeks, continuously

EXHIBIT E: NOTICE TO BE PROVIDED ON MUSEUM WEBSITE

Class Action Settlement: The Met has agreed to settle a class action lawsuit about the signs, website, and other public disclosures describing the Met's "pay what you wish" admissions policy. Any person who purchased admission or a membership on or after March 10, 2007 has the right to present objections to the Settlement at a hearing scheduled for _____, 2016. To learn more about the Settlement and procedures for objections, please visit www.metfees.com.

EXHIBIT F -- FORM OF PROPOSED ORDER GRANTING FINAL APPROVAL

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

FILIP SASKA, TOMÁŠ NADRCHAL, and
STEPHEN MICHELMAN,

Plaintiffs,

v.

THE METROPOLITAN MUSEUM OF ART,

Defendant.

Civil Action No. 650775/2013

**[PROPOSED] ORDER FINALLY
APPROVING SETTLEMENT**

This matter came before the Court on _____, 2016 for a Final Approval Hearing on the applications of the Settlement Class provisionally certified and Defendant The Metropolitan Museum of Art (the “Museum”) for (i) final approval pursuant to CPLR 908 of their Settlement Agreement dated February __, 2016 and its Exhibits attached as Exhibit 1 hereto, which sets forth the terms and conditions for a proposed settlement of the action and the termination and disposition of all causes of action against the Museum, and (ii) entry of judgment in accordance with that Settlement Agreement.

The Court has read and considered the Settlement Agreement and its Exhibits, as well as all papers filed in connection with the application for its approval and all papers filed in support of objections to that application, and has heard the oral argument of counsel. Based thereon, and good cause appearing therefor,

IT IS HEREBY ORDERED as follows:

1. This Final Approval Order and the accompanying Judgment incorporate by reference the definitions in the Settlement Agreement, and all terms used herein shall have the same meanings as set forth in the Settlement Agreement.

2. The Court has subject matter and personal jurisdiction over Plaintiffs, all members of the Settlement Class defined below, and Defendant.

3. Pursuant to CPLR 908, the Court finally approves the Settlement Agreement, including its payment and release provisions, and certifies the Settlement Class as defined below.

4. Pursuant to CPLR 902, the Court hereby certifies, solely for the purposes of effectuating the settlement contemplated in the Settlement Agreement, a Settlement Class defined as follows:

All persons who, at any time from March 5, 2007 to the date of final approval of the Settlement Agreement, purchased either (i) admission to the exhibition halls of the Metropolitan Museum of Art (in person, online, or through a third party vendor, in any location, using any form of payment) or (ii) a Metropolitan Museum of Art membership.

5. The Court finds and concludes that the Settlement Class meets the class action criteria of CPLR 902. But in the event of termination of the Settlement Agreement as provided therein, certification of the Settlement Class shall automatically be vacated without any further action by the Court, and the Museum may fully contest certification of any class in this action or any other action or proceeding as if no Settlement Class had been certified.

6. The definition of the proposed class in paragraph 101 of the Complaint is hereby amended to be the same as the Settlement Class defined above.

7. The Court finds and concludes that Plaintiffs will fairly and adequately represent and protect the interests of the Settlement Class, and may serve as representatives of the Settlement Class.

8. The Court continues the appointment of the firm of Emery Celli Brinckerhoff & Abady LLP to serve as Class Counsel.

9. The Court determines that the Publication Notice in the form of Exhibit C to the Settlement Agreement and Notice Plan described in Exhibit D to the Settlement Agreement was provided to the Settlement Class. The notice thus provided was fair, adequate, and sufficient, constituting the best practicable notice under the circumstances, and reasonably calculated to reach members of the Settlement Class and apprise them of this action, the terms and conditions of the Settlement Agreement, and their rights under the Settlement Agreement.

10. The Court retains jurisdiction to consider all further applications arising out of or relating to the Settlement Agreement.

11. Pursuant to the Settlement Agreement, the Museum is enjoined as follows:

- a. **Disclosures of “pay what you wish” admissions policy**—During the term of the Consent Decree, the Museum shall provide disclosures (“Pay What You Wish Disclosures”) of its “pay what you wish” admissions policy in the following manner:
 - i. The Museum will maintain a sign or signs plainly visible to visitors approaching the ticket cashiers informing visitors of the Museum’s “pay what you wish” admissions policy and the suggested admission

amounts by each category of visitor. Such sign(s) will disclose the Museum's "pay what you wish" admissions policy in a manner substantially similar to Exhibit G to the Settlement Agreement, it being agreed that signage with identical content in the same order and spacing, and in the same relative type font sizes, and with the same prominence of display and prominence of placement as disclosures currently in use, shall be "substantially similar" regardless of other changes in the design or presentation.

- ii. The Museum's website will disclose the Museum's "pay what you wish" admissions policy in a manner substantially similar to Exhibit H to the Settlement Agreement, it being agreed that disclosure of the admissions policy with identical content in the same order and spacing, and in the same relative type font sizes, with the same prominence of display and prominence of placement as disclosures currently in use, shall be "substantially similar" regardless of other changes in the design or presentation.
- iii. The Museum's on-site ticket kiosks and the first screens of the transaction pages will disclose the Museum's "pay what you wish" admissions policy in a manner substantially similar to Exhibit I to the Settlement Agreement, it being agreed that disclosure of the admissions policy with identical content in the same order and spacing, and in the same relative type font sizes, with the same prominence of display and prominence of placement as disclosures

currently in use, shall be “substantially similar” regardless of other changes in the design or presentation.

- b. **Third party websites**—The Museum will include a provision in its contracts with CityPass, New York Pass, Explorers Pass and NYCitAll Pass (“Third Party Vendors”) that each Third Party Vendor shall disclose the Museum’s “pay what you wish” admissions policy, such that purchasers can reasonably have been notified of such policy prior to purchasing a product which includes admission to the Museum. The Museum will use commercially reasonable efforts to enforce such contract provisions.
- c. **Future changes in suggested admission amounts**—The Museum may change the amounts of the suggested admission amounts under the existing “pay what you wish” admissions policy. If it does so, it may change the amounts of the suggested prices shown on its Pay What You Wish Disclosures. Any such change, if limited to changing the amounts of the suggested prices, will not require the consent of the Class Plaintiffs or the approval of the Court.
- d. **Staff training/ evaluation**—The Museum will continue its existing policies of (i) not evaluating Visitor Services staff according to individual sales amounts, and (ii) providing Visitor Services staff with introductory training and quarterly refresher training programs on the “pay what you wish” policy and procedures for explaining that policy to visitors. Such

procedures shall require that each cashier either ask how much visitors would like to pay or state that visitors may pay any amount they choose, and that, in accordance with training procedures currently in place, Visitor Services staff working as “line-busters” explain to visitors that they may pay less than the full suggested admission amount at the cashier’s desk if they continue waiting in line.

- e. **Future changes in Museum admission policy**—The Museum may, without seeking consent of the Class Plaintiffs or approval of the Court, change its admissions policy to charge some or all visitors mandatory admission fees (*i.e.*, fees charged on a basis other than the “pay what you wish” system), subject to any required governmental approvals. Any such change shall be deemed an “Admissions Policy Change.” The Museum will announce any Admissions Policy Change by means of a press release, with a copy provided simultaneously to Class Counsel, at least 30 days before the effective date of the Admissions Policy Change.
- f. **Revised disclosures following changes in Museum admission policy**—Immediately upon the effective date of any Admissions Policy Change, the Museum may revise the signs at the entrances to the Museum, the Museum’s web site, and communications with Third Party vendors (all such revisions being referred to as “Revised Disclosures”) to reflect the Admissions Policy Change.
- g. **Court review and approval of Revised Disclosures**—Within 30 days

after the effective date of any Admissions Policy Change, the Museum will apply to the Court, with notice to Class Counsel, for an order concerning application of the Consent Decree to the Revised Disclosures describing such Admissions Policy Change. If the Admissions Policy Change provides for a “pay what you wish” policy for some class or classes of visitors, the Court will review the Revised Disclosures and shall approve them if they disclose the availability of “pay what you wish” admission to such visitors in a manner substantially similar to the terms of paragraphs 11.a.i.-iii., above, governing Pay What You Wish Disclosures. On any such motion the Museum, as movant, shall bear the burden of persuading the Court that no such conflict or incompatibility exists. If the Admissions Policy Change does not provide for a “pay what you wish” policy for any class of visitors, the Court will enter an order stating that this Consent Decree is inapplicable to such Revised Disclosures.

- h. **Availability of “pay what you wish” admission**—During the term of this Consent Decree, so long as the Museum’s admissions policy permits some or all visitors to enter the Museum’s exhibition halls on a “pay what you wish” basis, the Museum will ensure that eligible visitors are provided with a reasonable opportunity to purchase admission at the public entrance to the Museum for less than the full suggested admission fee if they choose.
- i. **Duration of consent decree**—This Consent Decree, once entered, shall remain in effect until August 22, 2022. Upon the expiration of that time,

this Consent Decree shall, without further order of the Court, expire and be of no further force or effect.

12. By operation of the Settlement Agreement, the Releasing Parties have expressly and irrevocably waived and fully, finally, and forever settled, discharged, and released the Museum and each of its past, present, and future officers, trustees, and employees, from any and all manner of claims, demands, actions, suits, and causes of action, whether individual, class, representative, or otherwise in nature, whether known or unknown, suspected or unsuspected, for injunctive relief as to all Releasing Parties and for all forms of relief as to the Class Plaintiffs, that any Releasing Party ever had, now has, or hereafter can, shall, or may have, arising out of or relating in any way to the Museum's admission practices or its communications with the public concerning those practices, as follows:

- j. The three Class Plaintiffs release all claims of any nature, whether for equitable relief, money damages, or attorneys' fees and expenses.
- k. All other members of the Settlement Class release only claims for equitable relief and for attorneys' fees and expenses, and shall not be deemed to have settled, discharged or released the Museum from any claim for monetary damages. The claims released pursuant to this subparagraph and subparagraph a. are collectively referred to as "Released Claims."

13. By operation of the Settlement Agreement, the Releasing Parties have further expressly and irrevocably waived and fully, finally, and forever settled and released, any and all defenses, rights, and benefits that the Releasing Parties may have or that may be derived from the

provisions of applicable law which, absent such waiver, may limit the extent or effect of the release contained in the preceding paragraph.

14. Class Counsel and counsel for the Museum shall inform the Court in the event that the Settlement Agreement is terminated for any reason in accordance with its terms. In the event of termination, this Order Granting Final Approval and the Judgment will be vacated.

15. Nothing in this Order or in the Settlement Agreement is or shall be deemed or construed to be an admission or evidence of any violation of any statute or law or wrongdoing by the Museum, or of the merits of any claims or allegations alleged in the Complaint.

16. The Clerk is directed to enter this Order and the Judgment.

IT IS SO ORDERED.

DATED: _____

J.S.C.

Submitted by:

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Attorneys for Defendant

EXHIBIT G (REVISED)

RECEIVED NYSCEF: 06/30/2016

Suggested Admission

The amount you pay is up to you

Adults \$ 25
 Seniors (65 and over) \$ 17
 Students \$ 12
 Members Join Today! Free
 Children (under 12) Free

Please be as generous as you can

Audio Guide

Rent here, save time.
 Sales Tax included.

Regular \$ 7
 Members \$ 6
 Children (under 12) \$ 6

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 Philanthropies**

Packages

Special combination passes.

CityPASS \$ 116
 Adult \$ 92
 Youth (ages 13-17)
 New York Pass \$ 239
 3-day Adult \$ 189
 3-day Youth (ages 4-12)

CityPASS
 New York
 CityPASS
 New York

General Admission Tickets

Welcome to the Met! No matter where you buy them, all admission tickets include admission to the Met collection and all special exhibitions. Tickets also include same-week admission to The Cloisters Museum and Gardens. Tickets are valid for up to one year after the date of purchase.*

You can get tickets to the Met at the Museum's ticket counters or in advance through this website:

Ticket counter admission

If you buy tickets at a Museum ticket counter, the amount you pay is up to you. Please be as generous as you can. Suggested admission is \$25/adult, \$17/senior, \$12/student, and free for children under 12.

Advance admission

Avoid waiting in admission lines! By buying tickets online, you agree to pay our suggested prices:

Ticket Type	Price	Quantity
Adult Admission	\$25.00	— 1 +
Senior Admission (65+)	\$17.00	— +
Student Admission/ Valid ID	\$12.00	— 2 +
Child Under 12 with Adult	FREE	— 1 +

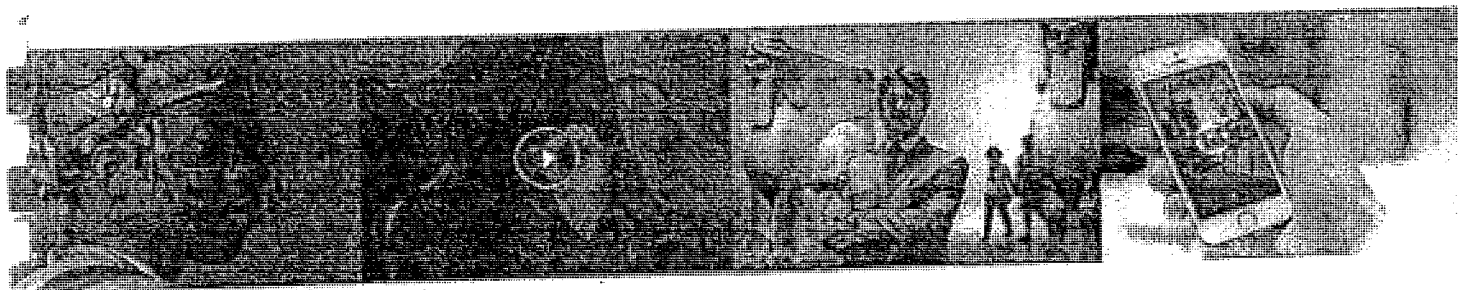
A service fee of \$1.00 is charged per advance admission ticket.

Membership

Admission is free to all Met Members. [Become a member today.](#)

We hope you enjoy your visit!

Terms and Conditions: No refunds or exchanges. Advance reservations required for all groups of 10 or more and for any third-party guided tours regardless of size. Visitors may have to wait in other lines within the Museum.



The Met Guide Book

The Met Guide provides a comprehensive view of art history.

Latest in MetMedia

Experience the best of human creativity from every corner of the globe at The Met.

Free Guided Tours

Explore highlights of the collection through a variety of The Met tours.

The Met App

The easiest way to see what's happening at the Met every day — wherever you are.

Express Tickets

Full Suggested
Admission Only

(Pay What You Wish Admission
Available at Ticket Counters)

Membership Sales
and Tickets

Audio Guide



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Hello! Let's get started.

Admissions

Purchase express admission tickets (full suggested amount only) and audio guides

Membership

Pick up your Member tickets, or join today

MetLiveArts

Email Signup



Admissions

Tickets include admission to the Met's collection and all special exhibitions. Admissions also include same-week access to the Cloisters museum and gardens. By purchasing a ticket at this kiosk you are agreeing to pay the full suggested admission. If you would like to pay less than the suggested admission, please proceed to a Museum ticket counter to pay as you wish.

Tickets

Adult	\$25	-	1	+
Senior	\$17	-	1	+
Student	\$12	-	1	+
Child	Free	-	1	+

Audio Guides

General	\$7	-	1	+
Child	\$5	-	1	+

Total: \$66.00

Your Order

1 Adult Admission	\$25.00
1 Senior Admission	\$17.00
1 Student Admission	\$12.00
1 Child Admission	\$0.00
1 Adult Audio Guide	\$7.00
1 Child Audio Guide	\$5.00

