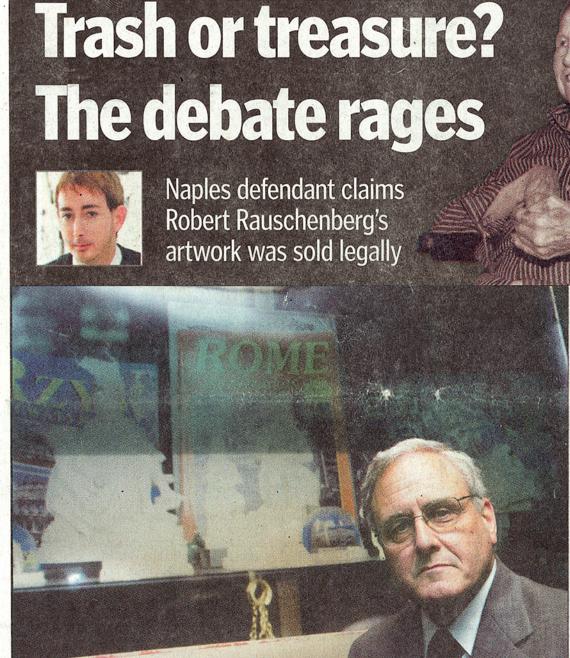
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Attorney Yale T. Freeman represents Robert Fontaine in a suit filed against Fontaine by Robert Rauschenberg over artwork taken from trash in front of Rauschenberg's Captiva home.

PHOTOS BY JOHN DAVID EMMETT/THE NEWS-PRESS

INSIDE/A12 More artwork was taken,

Artists Rights A look at how an artist's work, including paintings, drawings, prints, sculptures and photos, is protected by the Visual Artists Rights Act.

A glimpse of

the work Details of the art that Fontaine took out of Rauschenberg's trash and other pieces that could be missing. The case Legal

lawsuit and how the results could affect other History Other lawsuits involving artists allegedly taking images

created by others for use

in their own works.

experts weigh in on the

target of lawsuit alleges BY MARY WOZNIAK The lawsuit could define for mwozniak@news-press.com artists what rights they have to

Robert Fontaine, a Naples artist accused of taking from the

garbage the work of Captiva artist Robert Rauschenberg and selling some of it fraudulently, claims at least two others helped themselves to the trashed cache. If so, many more unauthorized Rauschenberg works could be floating around in art limbo in

The revelation comes in a case that has attracted international attention. Rauschenberg is considered

the public domain.

the greatest living contemporary artist, known for an array of work including paintings, sculpture and mixed media.

their own work, legal experts The case is scheduled to go to trial in February. Court papers

say both parties are unlikely to In an interview, Fontaine admitted taking two rolls of work that contain colored images that

could have been used in Rauschenberg's creative process. He said the rolls were taken 10 years ago from trash placed on the road outside the artist's Captiva Island home. Fontaine admits to have sold three pieces of the work, but he does not admit to selling them

fraudulently. See ART A12

news-press.com/galleries Photo gallery: View art taken from Rauschenberg's trash. View other examples of his art.

ROBERT RAUSCHENBERG

Born Milton Rauschenberg Oct. 22, 1925, in Port Arthur, Texas. Went to the Kansas City

Art Institute in 1947, studied in Paris at the Academie Julian, went to the experimental Black Mountain College in North Carolina in 1948 and studied at the Art Students League in New York City through 1951.

Married artist Susan Weil in 1950. Their son, Christopher, was born in 1951. They divorced in 1952. Redefined art in 1954 by

beginning to create "combines," a mixture of painting

and sculpture that included everyday found objects. His most famous combine is "Monogram," using a stuffed Started experimenting with the use of silkscreen

and repetitive images in 1962, anticipating the Pop Art Movement. Also embraced performance art.

Contemporary and friend of artists Jasper Johns, Cy Twombly, James Rosenquist, Joseph Albers and others, as well as dancer and choreographer Merce Cunningham, and musician and composer John Cage. Awarded the Grand Prize

for painting at the 1964 Venice Biennale, the first American ever. Moved to Captiva Island

in 1970. A Rauschenberg retro-

spective organized by the National Collection of Fine Arts in Washington, D.C., traveled throughout the U.S. in 1976-78. The Guggenheim Museum in New York put on a

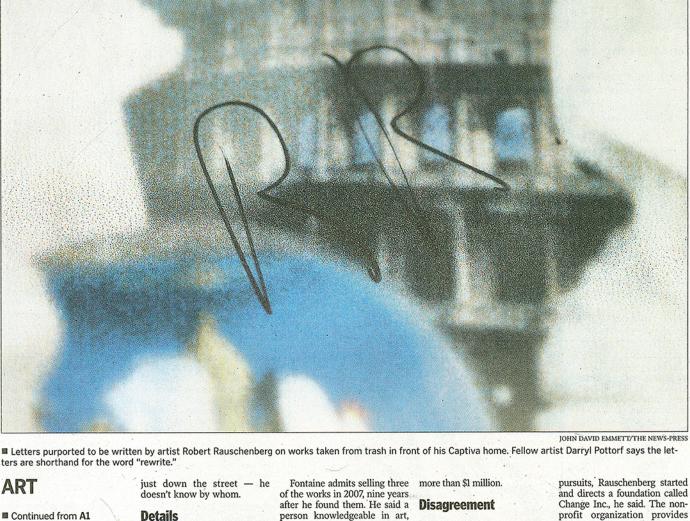
Rauschenberg retrospective

(400 works) in 1997. The exhibit traveled to Houston

and Europe in 1998. Continues to hold exhibits in New York City, abroad and at the Bob Rauschenberg Gallery at Edison College.

66 There is no more iconic artist than Rauschenberg. **99** Robert Fontaine, Naples artist

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profit organization provides emergency funds for artists. Rauschenberg also gives grants to artists to study and

Fontaine, an art student at the time, said he showed his find to

two co-workers at a now-defunct Captiva Island restaurant where he was working. Both took off to

■ Continued from A1

get their piece of the cache, Fontaine said. The man and woman returned with more rolls of Rauschenberg's work, Fontaine said. He doesn't know how many. He also declined to provide their

There were numerous other rolls of images sticking up in Rauschenberg's trash, Fontaine said. Anyone passing by could have helped themselves. "God only knows how many islanders were out that day," he said.

That's all true, but no one is

out trying to sell it except him," said Lawrence H. Kolin, Rauschenberg's attorney.

And artist Darryl Pottorf,

Rauschenberg's friend and neighbor, said there's no telling whose discarded material Fontaine really picked up. Rauschenberg is generous with letting other artists use his

up to 5 feet by 8 feet. Pottorf called the work "left-

large-format printer, so the pieces could easily be another artist's work, Pottorf said. The printer can reproduce images of

over stuff" and also said simi-

lar work was taken from his

aware last year some pieces of Fontaine's find were in circula-

Details

tion, he filed a federal lawsuit under the Visual Artists Rights lawsuit The Fontaine violated Rauschen-berg's rights as an artist and sold some of the pieces, complete with bogus certificates of authenticity.

The HW Gallery of Naples also is named in a state lawsuit seeking facts on whether Fontaine and the gallery sold, helped sell or offered to sell the works to unsuspecting buyers. Rauschenberg filed the law-

When Rauschenberg became

suits to protect the integrity of art and protect the collector, who deserves to know what he

or she is paying for, Pottorf When something happens like this, he has to take action."

Fontaine said he didn't know at first what kind of artwork he pulled from Rauschenberg's trash but knew it had to

belong to the artist. "I was curious as an art student. I saw them as materials worth looking at," he said. "I would have been stupid not to have looked at them."

Fontaine told the story of

finding the work to friends and

colleagues over the past 10 years. About half of what he

whom he declined to name, gave him the idea.

Fontaine said the first piece was sold through Space 39 Gallery in downtown Fort Myers, and the other two were sold through the HW Gallery in Tincher, owner of Terry

Space 39, denied Fontaine sold the work through his gallery. That's absolutely not true Tincher said. "I think when he was at Space 39 he sold one to someone in Fort Myers for cash. I didn't know that until

after the fact."
The HW Gallery sold two works that were brought to the

gallery by Fontaine, said Dami-an C. Taylor, the gallery's attor-ney. "They were works that Mr. Fontaine said he had acquired or found among items that were

discarded at the Rauschenberg studio," Taylor said. Fontaine claims not to know how much the first work sold for. The second and third sold for at least \$2,000 each, said Yale T. Freeman, Fontaine's attorney.

Rauschenberg's federal lawsuit contends Rauschenberg has suffered damages to his image which, in turn, jeopardizes the

pet dogs in Rauschenberg's backyard when growing up.
"He's a pretty interesting guy

and definitely someone I've looked up to my entire life, Fontaine said. "There is no more

iconic artist than Rauschenberg." Fontaine said news reports have painted him unfairly as a vil-

Fontaine said he spent his childhood on Sanibel and Capti-va islands and said he played with

lain in the case and he meant no harm to the artist by taking work from the trash. "I never meant malice in using or selling them," he said. But did he sell them with

bogus certificates of authenticity? That contention is probably the significant dispute in the case, Freeman said. There is a certificate that went with each of the pieces sold from the HW Gallery, he said. "There is a dispute as to how they were created and what

they were meant to say." The certificates were inten-tionally worded in a way meant

to skirt the law, and Fontaine is trading on Rauschenberg's name, Pottorf, meanwhile,

Rauschenberg has been stung by Freeman's depictions of the lawsuit as a David vs. Goliath case

a world-famous artist picking on

tries to help them," Pottorf said.

"He does not attack artists. He

continue their work, Pottorf said. One of those grants, for \$500, went to Fontaine as an art Freeman wants what he calls

creative solution to the case. He wants to arrive at language agreeable to Rauschenberg and Fontaine that will allow Fontaine to continue selling the work — perhaps as "Rauschenberg's Trash by Fontaine," Free-

Fontaine also wants to keep using pieces of the materials in creating his own works. "Having found them in the same way Rauschenberg finds his

materials, I'm hoping to have the privilege to use them as found objects, objects," he said. discarded Rauschenberg's initial breakthrough as an artist came by creating what he called "combines," assemblages that included discarded objects he found on the

Kolin doesn't look kindly to Freeman's "creative solution. Why would he be allowed to

street and in the trash.

profit from something pilfered that was meant to be destroyed?" Kolin asked. Kolin Fontaine is already violating the rights of the author "by trying to make a buck in an illegitimate fashion," he said.

ed work regularly sells for hun-dreds of thousands of dollars to found was given away, he said. Among numerous charitable trash outside his own studio "Why would he be allowed to profit from something pilfered that was meant to be destroyed?"

■ Lawrence H. Kolin, Rauschenberg's attorney

economic value of his legitimate

Rauschenberg's authenticat-