

**FEDERAL HOLOCAUST-ERA ART CLAIMS SINCE 2004**  
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**CASES LOST BY HOLOCAUST VICTIMS OR THEIR HEIRS**

	<b>Case Name</b>	<b>Case Number</b>	<b>Citation or Court in Which Pending</b>	<b>Disposition</b>
1	<i>Bakalar v. Vavra</i>	05-3037	2012 WL 4820801 (2d Cir. Oct. 11, 2012) (unpublished opinion).	Claimant lost after trial, incorrect choice-of-law, burden of proof analysis and interpretations of fact indicative of Nazi looting. 2d Circuit reversed. On remand, claimant lost again. 2d Circuit affirmed.
2	<i>von Saher v. Norton Simon Museum of Art at Pasadena</i>	07-05691	862 F.Supp.2d 1044 (C.D. Cal. Mar. 22, 2012).	Struck down all claims filed pursuant to California statute extending limitations period to 2010 and remanded to determine whether statute of limitations has run on common law conversion claim. Solicitor General recommended SCOTUS deny certiorari, which SCOTUS did. Defendants on remand filed MTD, which was granted by the court.
3	<i>Cassirer v. Kingdom of Spain</i>	Nos. 06-56325, 06-56406	616 F.3d 1019 (9th Cir. Aug. 12, 2010).	Court denied Spain's motion to dismiss on FSIA ground under the expropriation exception. Solicitor General recommended SCOTUS deny certiorari, which SCOTUS did. On remand, court ruled California statute at stake in <i>von Saher</i> unconstitutional in accordance with that case and dismissed.
4	<i>Westfield v. Federal Republic of Germany</i>	09-6010	623 F.3d 409 (6th Cir. Feb. 2, 2011).	Court ruled that Germany could not be sued under Foreign Sovereign Immunities Act (FSIA) for any taking of property during the war without even citing Bernstein on the ground that the taking had no "direct effect" in the U.S. 6th Circuit affirmed.
5	<i>Grosz v. MoMA</i>	09-CV-3706 (CM)	403 Fed.Appx. 575 (2d Cir. 2010) (unpublished opinion).	Court granted museum's motion to dismiss on ground that recently exchanged letters triggered demand and refusal such that the statute of limitations just barely ran out. Affirmed on appeal. SCOTUS denied petition for certiorari.
6	<i>Boston MFA v. Seger-Thomschitz</i>	08-10097-RWZ	633 F.3d 1 (1st Cir. Oct. 14, 2010).	Court granted museum's motion for summary judgment declaring its superior interest in painting. Affirmed on appeal. SCOTUS denied petition for certiorari.

7	<i>Dunbar v. Seger-Thomschitz</i>	09-30717	615 F.3d 574 (5th Cir. Aug. 20, 2010).	Prescriptive ownership by present-day possessor under Louisiana law; motion for summary judgment granted. Affirmed on appeal. SCOTUS denied petition for certiorari.
8	<i>Orkin v. Taylor</i>	05-55364	487 F.3d 734 (9th Cir. 2007).	Holocaust Victims Redress Act did not create a private right of action. State law claims barred by statute of limitations. Affirmed on appeal. SCOTUS denied certiorari.
9	<i>Detroit Inst. of Arts v. Ullin</i>	06-10333	2007 WL 1016996 (E.D. Mich. Mar. 31, 2007).	Declaratory judgment issued to museum and claimants' state law claims dismissed on statute of limitations grounds (claim accrued in 1938 and expired in 1941, before the end of WWII).
10	<i>Toledo Museum of Art v. Ullin</i>	3:06 CV 7031	477 F.Supp.2d 802 (N.D. Ohio 2006)	Declaratory judgment issued to museum and claimants' state law claims dismissed on statute of limitations grounds. Analysis similar, but not identical to <i>Detroit Inst. of Arts v. Ullin</i> .
11	<i>Orkin v. The Swiss Confederation, et al.</i>	09-10013 (LAK)	2011 WL 4822343 (2d Cir. Oct. 12, 2011).	MTD granted for lack of jurisdiction under FSIA and Alien Tort Statute. Affirmed on appeal.
12	<i>Maestracci v. Seated Man With a Cane, 1918 et al.</i>	11 CIV 7710	2011 WL 5142960 (S.D.N.Y. Oct. 26, 2011)	Action for declaratory judgment and replevin of Modigliani painting located at the Helly Nahmad Gallery in New York City, New York. Lawyer committed serious procedural improprieties leading to dismissal.
13	<i>In re Flamenbaum</i>  (state case of great significance)	No. 2010-4400.	95 A.D.3d 1318 (N.Y. App. Div., May 30, 2012).	Vorderasiatisches Museum action for declaratory judgment and replevin of a gold tablet dated back from 13 <sup>th</sup> century BC in possession of the Flamenbaum estate. The court found it was not barred from laches theory and reversed the lower court's opinion, but finding that the museum had legal title and a superior right to the tablet.

**CASE WON BY HOLOCAUST VICTIM OR HEIR IN FEDERAL COURT**

<i>Vineberg v. Bissonnette</i>	08-1136	548 F.3d 50 (1st Cir. 2008).	Affirmed D. R.I. summary judgment in favor or claimant. Only case won by a claimant in federal court since 2004 (with the arguable exception of the federal government's obtaining of a default judgment against Italy in <i>Cristo</i> , below).
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**CASES SETTLED AFTER COMPLAINT FILED IN FEDERAL COURT**

<i>Museum of Modern Art v. Schoeps</i>	09 CV 11074	549 F.Supp.2d 543 (S.D.N.Y. 2008), 594 F.Supp.2d 461 (S.D.N.Y. 2009).	Settled on eve of trial.
<i>U.S. v. One Oil Painting Entitled "Femme en Blanc" By Pablo Picasso</i>	CV 04-8333FMCAJWX	362 F.Supp.2d 1175 (Mar. 31, 2005).	Parties settled after the present-day possessor filed a declaratory action against the claimant after removing the painting from California on the eve of a hearing on a temporary restraining order in the state court case filed by the claimant. The California trial court judge then dismissed the California state case for lack of subject matter jurisdiction. The U.S. government then filed this civil forfeiture action seizing the painting. Settled.
<i>Republic of Austria v. Altamann</i>	03-13	541 U.S. 677 (2004).	FSIA applies to allow jurisdiction over foreign sovereign regardless of whether the conduct at issue predates the FSIA. Claimant won after consenting to arbitration in Vienna.
<i>United States v. Portrait of Wally, A Painting by Egon Schiele</i>	99 Civ. 9940 (MBM)	663 F.Supp.2d 232 (S.D.N.Y. 2009).	Civil forfeiture action filed 1999 after grand jury subpoena to seize painting was quashed in state court in 1998. District Court denied cross-MSJ's. Settled on eve of trial (shortly after death of Mr. Leopold).
<i>Estate of Irene Korhumel v. Estate of I.K. and John Does</i>	No. 1:2011cv05557	(N.D. IL. Aug. 15, 2011).	The Estate of Irenen Korhumel sued for the official rights of the Renoir painting, "Paysage Pres de Cagnes". Mr. Semmel, the original owner, was force to sell his art collection after he was cut off from his income and his business. Therefore, it was a question of whether the Korhumels' owned the painting or the heirs of Semmel. After the complaint was filed, the case was settled for an undisclosed amount.
<i>United States v. Painting Known As "Cristo Poracroce Trascinato Da Un Mangoldo" by Romanino</i>	4:11CV S71-RH1 WCS	(N.D. Fl. Nov. 4, 2011)	Civil forfeiture action filed against Romanino painting located at the Mary Brogan Museum in Tallahassee, Florida. Allegations are that the painting was imported contrary to law and smuggled into the country contrary to law. Italy defaulted on seizure, effectively settling the case.

**CASES STILL PENDING IN DISTRICT COURT**

<i>de Csepel, Herzog, et. al v. Rep of Hungary, et. al.</i>	1:10-01261 (ESH)	808 F. Supp.2d 113 (D.D.C. Sept. 1, 2011).	Court denied MTD except as to a small number of paintings that were the subject of prior proceedings in Hungary.
<i>Fischer, et.al. v. Erste Group Bank, et. al.</i>	No. CV 12-3328	(E.D. N.Y. July 5, 2012)	Action for declaratory judgment, restitution/replevin of the contents of a safety deposit box. Action for restitution for value of the bank accounts, loss of a mortgaged building, lost salary, pension and other employment benefits.