

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

	Case Name	Case Number	Citation or Court in Which Pending	Disposition
1	<i>Bakalar v. Vavra</i>	08-5119-cv	Awaiting 2d Cir. Opinion on Appeal. Oral argument was Oct. 9, 2009 2008 WL 4067335, at *6 (S.D.N.Y. Sept. 2, 2008)	Claimant lost after trial, incorrect exclusion of Holocaust art historian expert report, choice-of-law determination and interpretation of Swiss law analyzed in brief of <i>amici</i> .
2	<i>Boston MFA v. Seger-Thomschitz</i>	08-10097-RWZ	Appeal noticed to 1st Cir. from D.Mass. May 28, 2009 slip op.	Court granted museum's motion for summary judgment declaring its superior interest in painting.
3	<i>Dunbar v. Seger-Thomschitz</i>	08-711	Appeal noticed to 5th Cir. 2009 WL 1911008 (E.D.La. July 2, 2009).	Prescriptive ownership by present-day possessor under Louisiana law; motion for summary judgment granted.
4	<i>Westfield v. Germany</i>	Civ.A. 3:09-0204	Appeal noticed to 6 th Cir. 2009 WL 2356554 (M.D. Tenn., July 28, 2009).	Court ruled that Germany could not be sued under the Foreign Sovereign Immunity Act (FSIA) for any taking of property during the war without even citing <i>Bernstein</i> .
5	<i>von Saher v. Norton Simon Museum of Art</i>	07-56691	Remanded from 9 th Cir. to C.D. Cal. 2009 WL 2516336, (9th Cir. Aug. 19, 2009).	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. Petition for certiorari filed with SCOTUS.
6	<i>Grosz v. MoMA</i>	09-CV-3706 (CM)	Appeal noticed to 2d Cir. from S.D.N.Y. Jan. 11, 2010 slip op.	Court granted museum's motion to dismiss.
7	<i>Orkin v. Taylor</i>	05-55364	Petition for cert. to SCOTUS denied. 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.
8	<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.
9	<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 (claim accrued in 1938 and expired in 1941, before the end of WWII).

CASE WON BY HOLOCAUST VICTIM OR HEIR IN FEDERAL COURT

Case Name	Case Number	Citation or Court in Which Pending	Disposition
<i>Vineberg v. Bissonnette</i>	08-1136	548 F.3d 50 (1st Cir. 2008).	Affirmed D. R.I. summary judgment in favor of claimant. Only case won by a claimant in federal court since 2004.

CASES SETTLED AFTER COMPLAINT FILED IN FEDERAL COURT

<i>Museum of Modern Art v. Schoeps</i>	07 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 judgment 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. Altmann</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.

CASES STILL PENDING IN DISTRICT COURT

<i>United States v. Portrait of Wally, A Painting by Egon Schiele</i>	99 Civ. 9940 (MBM)	2002 WL 553532 (S.D.N.Y. Apr. 12, 2002).	Civil forfeiture action filed after grand jury subpoena to seize painting was quashed in state court in 1998. Federal case has been pending since 1999. Trial set for 2010.
<i>Cassirer v. Spain</i>	CV 05-3459-GAF(CTX)	461 F. Supp. 2d 1157 (C.D. Cal. 2006).	Court denied Spain's motion to dismiss on FSIA grounds under the expropriation exception. Interlocutory appeal affirmed this ruling on September 8, 2009. Rehearing en banc March 24, 2010.

See also #5 above.