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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MICHELE BABBITT KANE
and KARIN WENDY
BABBITT, individually and as
heirs and successors-in-interest
to DINA GOTTLIEBOVA
BABBITT,

Plaintiffs,

V.

PAŃSTWOWE MUZEUM
AUSCHWITZ-BIRKENAU W
OSWIECIMIU,

Defendant.

Case No. 2:26-cv-10429

**COMPLAINT FOR:
[1] RECOVERY, TITLE, DAMAGES,
AND OWNERSHIP OF ARTWORK
TAKEN AS A RESULT OF
POLITICAL PERSECUTION (CAL.
CODE CIV. PROC. § 338.2)
[2] DECLARATORY RELIEF (CAL.
CODE CIV. PROC. § 1060)**

Plaintiffs Michele Babbitt Kane and Karin Wendy Babbitt (collectively, “Plaintiffs”), individually and as the heirs and successors-in-interest to Dinah Gottliebova (née Annemarie Gottliebova), a/k/a Dinah Gottliebova Babbitt, Dinah Babbitt, Dina Babbitt, and Dinah Schall (“Dina Gottliebova Babbitt”), bring

1 this action against the Państwowe Muzeum Auschwitz-Birkenau w Oświęcimiu
 2 (“Auschwitz-Birkenau State Museum,” “Defendant,” or the “Museum”) for
 3 recovery of artwork taken or lost as a result of political persecution, declaratory
 4 relief, damages, and such other relief as authorized by law, and allege, upon
 5 knowledge as to themselves and their conduct and upon information and belief as to
 6 all other matters, as follows:

7 INTRODUCTION

8 1. This action seeks the return of seven original watercolor portraits
 9 (collectively, the “Watercolors”) that Dina Gottliebova Babbitt created in 1944
 10 while imprisoned at Auschwitz-Birkenau, the Nazi concentration and extermination
 11 camp in German-occupied Poland during World War II. Dina Gottliebova Babbitt
 12 survived Auschwitz and, after liberation, eventually made her home in California,
 13 first settling in Los Angeles and later residing in the Santa Cruz County communities
 14 of Bonny Doon, Live Oak, and Felton. She worked for nearly twenty years as an
 15 animation assistant for Hollywood studios including MGM, Warner Bros., Hanna-
 16 Barbera, and Jay Ward Productions, and contributed to Wile E. Coyote, Tweety,
 17 Daffy Duck, Speedy Gonzales, and Cap’n Crunch. Plaintiffs Michele Babbitt Kane
 18 and Karin Wendy Babbitt are her daughters and heirs. They now seek the return of
 19 the Watercolors that their mother spent decades trying to recover.

20 2. Dina Gottliebova Babbitt was born in Brno, Czechoslovakia, on
 21 January 21, 1923. As a teenager, she was admitted to Škola uměleckých řemesel, a
 22 selective art school in Brno. On March 15, 1939, Nazi Germany occupied
 23 Czechoslovakia and the next day established the Protectorate of Bohemia and
 24 Moravia (“Protectorate”), with Adolf Hitler declaring that the “territories which
 25 formed part of the former Czechoslovak Republic and which were occupied by
 26 German troops in March 1939 belong[ed] . . . to the territory of the German Reich.”
 27 Later that month, Hitler appointed Konstantin von Neurath (“von Neurath”) as
 28 *Reichsprotektor* for Bohemia and Moravia. On June 21, 1939, von Neurath issued

1 the *Verordnungen des Reichsprotectors über das jüdische Vermögen* (Regulation on
2 Jewish Property), which applied the Nuremberg Laws—the cornerstone of the
3 legalized persecution of Jews in Nazi Germany—to the Protectorate. Under the
4 Nuremberg Laws, a person was defined as a “Jew” if she was descended from at
5 least three grandparents who were considered racially full Jews, and a person
6 descended from two Jewish grandparents was also considered a Jew if she belonged
7 to the Jewish religious community, was married to a Jew, or met certain other
8 criteria.

9 3. Beginning in March 1939, Jewish pupils were expelled from German-
10 language schools in the Protectorate. In February 1940, Dina Gottliebova Babbitt,
11 like all Jews in the territory, was required to appear at her local police station and
12 have the letter “J” for *Jude* (Jew) stamped on her identity papers, which Jews were
13 then required to carry with them. On August 7, 1940, on the authority of the
14 *Reichsprotector*, the Czech minister of education expelled Jewish students from all
15 Czech schools, forcing Dina Gottliebova Babbitt to abandon her artistic studies.

16 4. On October 10, 1941, Reinhard Heydrich, head of the Reich Security
17 Main Office and acting *Reichsprotector*, met with other Nazi officials to plan the
18 deportation of Czech Jews from the Protectorate and the use of Theresienstadt as a
19 transit ghetto. Shortly before her nineteenth birthday in January 1942, Dina
20 Gottliebova Babbitt and her mother were transported from Brno to the
21 Theresienstadt ghetto. They were among the more than 140,000 Jews the Nazis
22 deported to Theresienstadt between 1941 and 1945. On September 7, 1943, the day
23 after her mother was deported from Theresienstadt to Auschwitz-Birkenau, Dina
24 Gottliebova Babbitt was likewise deported to Auschwitz-Birkenau. They were
25 deported with approximately 5,000 other Jews who had been imprisoned in the
26 ghetto. Of the approximately 68,000 Czech Jews deported from Theresienstadt in
27 mass transports, Dina Gottliebova Babbitt and her mother are among the 3,371
28 known to have survived.

1 5. At Auschwitz, Fredy Hirsch, a fellow inmate, asked Dina Gottliebova
2 Babbitt to paint a mural in the children's block to give the imprisoned children
3 something joyful to look at, and she painted a scene of Snow White and the Seven
4 Dwarfs. A Schutzstaffel ("SS") officer saw the mural and brought her artistic ability
5 to the attention of the infamous SS physician Dr. Josef Mengele ("Dr. Mengele"),
6 known as the "Angel of Death" because of the lethal pseudo-scientific experiments
7 he conducted on prisoners. Dr. Mengele ordered her to paint watercolor portraits of
8 Roma prisoners whom Dr. Mengele selected as subjects for his pseudo-scientific
9 work because his camera could not capture "their racial inferiority." Dina
10 Gottliebova Babbitt complied only on the condition that Dr. Mengele spare her and
11 her mother from the gas chambers. In constant fear for her own life, Dina
12 Gottliebova Babbitt painted the Watercolors with deep sympathy for her subjects.
13 Later, reflecting on the role the Watercolors had played in her survival at Auschwitz,
14 she remarked—speaking of her mother, children, and grandchildren—"Everybody
15 exists today because of these paintings." She signed and dated at least six of the
16 seven Watercolors "Dinah 1944" in pencil. Dr. Mengele then took the completed
17 portraits from her. Dina Gottliebova Babbitt never voluntarily sold, assigned,
18 transferred, or relinquished the Watercolors. Yet more than eighty years later, all
19 seven of the Watercolors remain in the possession of the Museum, which claims that
20 it—not Dina Gottliebova Babbitt's heirs—owns them. Images of the Watercolors
21 are attached as Exhibits 1–7.

22 6. The Museum has never obtained lawful title to the Watercolors. Its
23 claim of ownership rests on post-war acts of and transactions through persons who
24 never had any legal right to the Watercolors and never obtained title from Dina
25 Gottliebova Babbitt.

26 7. Nor could the Museum have been in any doubt about the Watercolors'
27 authorship. At least six of the seven Watercolors bore Dina Gottliebova Babbitt's
28 "Dinah 1944" signature on the face of the works. Indeed, the Museum invited Dina

1 Gottliebova Babbitt to Auschwitz to authenticate the Watercolors in 1973, and she
2 traveled there believing that the Museum intended to return her art to her. Instead,
3 the Museum interviewed her, showed her the paintings, asked her to authenticate
4 them, and sent her home empty-handed.

5 8. In the decades that followed her visit to Auschwitz, Dina Gottliebova
6 Babbitt and her daughters repeatedly sought the Watercolors' return. In 1997, Dina
7 Gottliebova Babbitt formally sought the Watercolors' return from the Museum, and
8 thereafter pursued their recovery through correspondence with the Museum, the
9 Polish government, United States officials, and counsel. After Dina Gottliebova
10 Babbitt's death in 2009, Plaintiffs continued those efforts to recover their mother's
11 property, including through Polish counsel, a formal pre-action demand in 2018,
12 direct correspondence with the Museum in 2023, and an appeal to the Prime Minister
13 of Poland in 2025. The Museum has never returned the Watercolors.

14 9. Dina Gottliebova Babbitt and her daughters' efforts to recover the
15 Watercolors received extraordinary support from the United States government. In
16 1997, United States Senators sought assistance from the U.S. Ambassador to the
17 European Union and Special Envoy on Holocaust-Era Issues, Stuart Eizenstat, in
18 obtaining the Watercolors' return, and the United States Embassy pursued the matter
19 with Polish authorities. Congress subsequently intervened. In legislation reported
20 by the Senate Foreign Relations Committee, chaired by then-Senator Joseph R.
21 Biden, Jr., the Committee recognized Dina Gottliebova Babbitt as the rightful owner
22 of the Watercolors and urged the President to "make all efforts necessary" to retrieve
23 them.¹ In 2002, Congress enacted legislation recognizing Dina Gottliebova Babbitt
24
25
26

27 ¹ See S. 1401, 107th Cong. § 781, at 150–51 (2001) (stating that the Senate
28 Committee on Foreign Relations views Dina Gottliebova Babbitt as "the rightful
owner" of the Watercolors and that the President should "make all efforts necessary
to retrieve" them).

1 as “the rightful owner of the [Watercolors],” acknowledging her “moral right” to
 2 obtain them, and urging the President and Polish authorities to secure their return.²

3 10. Separate and apart from its possession and use of the Watercolors, the
 4 Museum engages in substantial commercial activity in the United States. For
 5 example, the Museum presented its *Forbidden Art* exhibition at Temple Beth
 6 Shalom in Las Vegas in 2013, as part of a multi-city tour of the United States.
 7 Museum Director Piotr M.A. Cywiński participated in the exhibition’s opening.
 8 More recently, the Museum served as a co-creator and institutional collaborator on
 9 the traveling exhibition entitled *Auschwitz. Not Long Ago. Not Far Away*. (the
 10 “Traveling Exhibition”). The Traveling Exhibition has been presented at multiple
 11 venues in the United States, including in New York, Kansas City, Boston,
 12 Cincinnati, and, from March 2023 through January 2024, at the Ronald Reagan
 13 Presidential Library and Museum in Simi Valley, California (the “Reagan Library
 14 Exhibition”). The Museum and private exhibition company Musealia (“Musealia”)
 15 have described the Traveling Exhibition as having been created together, and the
 16 Reagan Library Exhibition was ticketed and attracted approximately 180,000
 17 visitors in 2023.

18 11. California Code of Civil Procedure § 338.2 is consistent with the
 19 federal Holocaust Expropriated Art Recovery Act of 2016, as amended in 2026
 20 (“HEAR Act”),³ which was enacted to overcome time-based and other barriers that
 21 had for decades prevented Holocaust-era art claims from being decided on the
 22 merits. Section 338.2 likewise advances federal laws, policies, and international
 23 agreements favoring the restitution of art lost through Nazi persecution.⁴ Section
 24 338.2 was enacted to allow victims like Dina Gottliebova Babbitt and their families

25
 26 ² See Foreign Relations Authorization Act, Fiscal Year 2003, Pub. L. No. 107-228,
 27 § 705, 116 Stat. 1350, 1423 (2002) (recognizing Dina Gottliebova Babbitt’s “moral
 28 right” to obtain the Watercolors and urging the President to “make all efforts
 necessary” to retrieve the Watercolors and return them to her).

³ See Holocaust Expropriated Art Recovery Act of 2025, Pub. L. No. 119-82, 140
 Stat. 752 (2026).

⁴ See 2024 Cal. Stat. ch. 257, § 1(a), (g)–(k).

1 to pursue claims for the return of property wrongfully taken decades earlier. It opens
2 California's courts to owners, heirs, and successors-in-interest seeking to recover
3 artwork taken or otherwise lost as a result of political persecution, and gives such
4 claimants a two-year window from enactment to bring claims that otherwise might
5 be time-barred.

6 12. This case is the paradigm case Section 338.2 was enacted to permit: a
7 California family seeking the return of Watercolors created by their Jewish mother
8 under Nazi coercion at Auschwitz and withheld by a Polish state museum for
9 decades despite the Museum's own repeated acknowledgments of the family's
10 rights. Plaintiffs therefore bring this action to recover the Watercolors painted by
11 their mother and now belonging to them, obtain a declaration of their ownership and
12 right to immediate possession, and secure all other remedies available under Section
13 338.2.

14 **PARTIES**

15 13. Plaintiffs Michele Babbitt Kane and Karin Wendy Babbitt are the
16 daughters and heirs of Dina Gottliebova Babbitt. Karin Wendy Babbitt resides in
17 Ben Lomond, California. Michele Babbitt Kane resides in Las Vegas, Nevada.
18 Following their mother's death in 2009, they succeeded to her interests in the
19 Watercolors. Plaintiffs have continued Dina Gottliebova Babbitt's decades-long
20 efforts to recover the Watercolors.

21 14. Defendant Auschwitz-Birkenau State Museum is a museum located at
22 the former Auschwitz-Birkenau concentration and extermination camp in the
23 Republic of Poland ("Poland"). The Museum possesses the seven Watercolors and
24 claims ownership of them. Upon information and belief, the Museum is an agency
25 or instrumentality of Poland within the meaning of 28 U.S.C. § 1603(b). There is
26 no dispute regarding either Dina Gottliebova Babbitt's authorship of the Watercolors
27 or the circumstances in which she created them—namely, that she painted them in
28 1944 during her internment by the Nazis at the Auschwitz-Birkenau concentration

1 and extermination camp, where she was imprisoned from 1943 to 1945 because she
2 was a Czech Jew.

3 ARTWORKS AT ISSUE

4 15. The Watercolors consist of seven original watercolor portraits that Dina
5 Gottliebova Babbitt created in 1944 while imprisoned at Auschwitz-Birkenau.

6 16. Each of the seven surviving Watercolors depicts a Roma prisoner held
7 at Auschwitz-Birkenau; all of the individuals portrayed were later murdered there.
8 Dina Gottliebova Babbitt signed at least six of the Watercolors “Dinah 1944.”

9 17. Upon information and belief, the following seven Watercolors are
10 presently in the possession, custody, or control of the Museum:

- 11 a. “Zigeunerin aus Polen,” a portrait of a Romani woman wearing
12 a headscarf with dimensions of 40 x 46 cm;
- 13 b. “Zigeuner-Mischling aus Deutschland,” a portrait of a gray-
14 haired Romani woman with dimensions of 31 x 38.5 cm;
15 including a card glued to the back with a watercolor of a
16 capercaillie with dimensions of 32 x 32 cm;
- 17 c. “Zigeuner-Mischling aus Deutschland,” a portrait of a Romani
18 man with a shaved head with dimensions of 26 x 33 cm;
- 19 d. “Zigeuner-Mischling aus Frankreich,” a portrait of a Romani
20 man with dimensions of 40 x 45 cm;
- 21 e. “Zigeuner-Mischling aus Frankreich,” a portrait of a Romani
22 girl with a headscarf with dimensions of 31 x 38.5 cm;
- 23 f. “Zigeuner-Mischling aus Deutschland,” a portrait of a Romani
24 woman wearing a patterned headscarf with dimensions of 32.5
25 x 38 cm; and
- 26 g. “Zigeuner-Mischling aus Deutschland,” a portrait of a Romani
27 boy.

18. Dina Gottliebova Babbitt never voluntarily sold, assigned, gifted, abandoned, relinquished ownership of, or otherwise consented to the transfer of the Watercolors to Dr. Mengele, the SS, the Museum, or any other person.

19. The Museum presently possesses all seven Watercolors and claims ownership of them, despite admitting that Dina Gottliebova Babbitt is the artist of the works.

20. Plaintiffs are the lawful owners and are entitled to immediate possession of the Watercolors.

JURISDICTION AND VENUE

21. This Court has subject matter and personal jurisdiction over Defendant under 28 U.S.C. § 1330 because Defendant is an agency or instrumentality of a foreign state within the meaning of the Foreign Sovereign Immunities Act (“FSIA”) and is not entitled to immunity under the exceptions set forth in 28 U.S.C. §§ 1605–1607. Process will be served on Defendant pursuant to 28 U.S.C. § 1608(b).

22. Venue is proper in this District pursuant to 28 U.S.C. § 1391(f)(3).

A. DEFENDANT IS NOT IMMUNE FROM SUIT UNDER 28 U.S.C. § 1605(A)(3)

23. Under 28 U.S.C. § 1605(a)(3), a foreign state is not immune from suit where (1) rights in property taken in violation of international law are in issue and (2) there is an adequate commercial nexus between the United States and the defendant. Where, as here, the property is owned or operated by an agency or instrumentality of a foreign state, the commercial-nexus requirement is satisfied if that agency or instrumentality is engaged in commercial activity in the United States. The commercial activity need not itself involve the expropriated property or give rise to Plaintiffs’ claims.

24. This action concerns rights in property taken in violation of international law. The Watercolors were created by Dina Gottliebova Babbitt, a Czech Jew, in 1944, under Nazi coercion while she was imprisoned at Auschwitz, and were then taken from her by German Nazi SS physician Dr. Josef Mengele and

1 never returned. A taking by the state of the property of a national of another state
 2 violates international law if it “does not serve a public purpose, . . . discriminates
 3 against those who are not nationals of the country, or . . . is not accomplished with
 4 payment of just compensation.”⁵ The taking of the Watercolors satisfies this
 5 standard because it served no legitimate public purpose, discriminated against Dina
 6 Gottliebowa Babbitt—a non-German national imprisoned at Auschwitz because she
 7 was Jewish—and was not accompanied by any compensation, much less just
 8 compensation.

9 25. The Museum is an agency or instrumentality of Poland within the
 10 meaning of 28 U.S.C. §§ 1603(b) and 1605(a)(3), and it “operate[s]” the
 11 Watercolors, which are in its possession, custody, and control. Upon information
 12 and belief, the Museum exists as a legal entity separate from Poland and has
 13 authority to conduct its own operations and enter into commercial arrangements with
 14 third parties. The Museum’s status reflects both its connection to the Polish state
 15 and the commercial nature of its operations: it is a Polish state-owned cultural
 16 institution led by a Director appointed by the Polish minister responsible for culture
 17 and heritage protection, while its operational functions include activities commonly
 18 performed by private museums and cultural institutions. Its organizational structure
 19 includes departments dedicated to exhibition and publishing, visitor and educational
 20 services, and collections, research, conservation, and administration. Through these
 21 and other departments, the Museum arranges exhibitions, publishes and sells books
 22 and other materials, licenses images, maintains online platforms for presenting its

23
 24 ⁵ *Cassirer v. Kingdom of Spain*, 616 F.3d 1019, 1027 (9th Cir. 2010) (en banc)
 25 (citing *Siderman de Blake v. Republic of Argentina*, 965 F.2d 699, 711–12 (9th Cir.
 26 1992), and *West v. Multibanco Comermex, S.A.*, 807 F.2d 820, 831–33 (9th Cir.
 27 1987)). At the jurisdictional stage, a court “need not decide whether the taking
 28 actually violated international law” because a “substantial and non-frivolous” claim
 is sufficient to establish jurisdiction. *Id.* (quoting *Siderman*, 965 F.2d at 711).
 Applying this standard to a Nazi taking of artwork from a Jewish victim, the district
 court in *Cassirer* concluded that “the taking was discriminatory and without just
 compensation,” noting that “the Nazis stripped the Jews of their citizenship and took
 their property.” *Cassirer v. Kingdom of Spain*, 461 F. Supp. 2d 1157, 1170 (C.D.
 Cal. 2006).

1 collection and promoting its exhibitions, publications, and institutional activities,
2 and collaborates with private companies and institutions. The Museum's governing
3 statute also authorizes it to conduct additional economic activity, including leasing
4 property, selling publications, making its collections available for exhibitions,
5 publications, films, and photography, and providing tourist, educational,
6 conservation, advertising, image, and information services. These activities
7 generate substantial independent revenue. According to the Museum's 2024 annual
8 report, the Museum generated approximately PLN 115.6 million in its own revenue,
9 accounting for approximately 53% of its approximately PLN 218.6 million total
10 budget.

11 26. The Museum engages in commercial activity in the United States.
12 Those activities include conduct of a type in which private museums and private
13 parties routinely engage, including the marketing, sale, and distribution of books and
14 other publications; the provision of paid visitor, educational, and related services;
15 licensing of images; advertising and promotion directed to United States audiences;
16 online transactions with United States customers; and contractual and institutional
17 collaborations relating to exhibitions presented in the United States. As described
18 more fully below, the Museum's commercial activities in the United States include,
19 among other things:

- 20 a. The Museum participates in exhibitions, including co-
21 productions, which have been presented repeatedly in the United
22 States, including at the Reagan Library in California;
- 23 b. The Museum collaborates with private exhibition companies and
24 United States cultural institutions in presenting exhibitions to
25 paying members of the public, including, upon information and
26 belief, through arrangements involving Musealia, World
27 Heritage Exhibitions, and United States host institutions; the
28 Reagan Library Exhibition was ticketed and attracted

1 approximately 180,000 visitors in 2023, and the Traveling
2 Exhibition is scheduled to be presented at the United States
3 Holocaust Memorial Museum in Washington, D.C., from
4 January 2027 through spring 2029;

5 c. Although general admission to the Museum is free, the Museum
6 offers guided tours and certain visitor passes for a fee through its
7 online reservation system and, upon information and belief,
8 customers located in the United States have booked and paid for
9 those services directly through that system;

10 d. The Museum publishes, promotes, distributes, and sells books
11 and other publications to or for United States audiences and
12 purchasers, including through an online bookstore through which
13 it sells Museum publications directly to customers. Museum
14 publications remain available for purchase in the United States
15 through third-party sellers, including Amazon. These
16 publications include a Museum-published book that reproduces
17 all seven Watercolors and features one of the Watercolors on its
18 cover;

19 e. The Museum supplies or licenses images to third parties,
20 including United States media, and, upon information and belief,
21 enters into commercial arrangements concerning such images;

22 f. The Museum operates online platforms through which it displays
23 its collections and promotes its activities to users in the United
24 States; a PDF version of the Museum-published book
25 reproducing the Watercolors is also available through
26 Academia.edu, a for-profit company headquartered in San
27 Francisco;
28

1 g. Upon information and belief, the Museum contracts or otherwise
2 enters into commercial arrangements with private companies,
3 cultural institutions, vendors, publishers, distributors, or other
4 entities in connection with activities directed to or occurring in
5 the United States; and

6 h. The Museum maintains a significant financial and institutional
7 relationship with the United States through the Auschwitz-
8 Birkenau Memorial Foundation (“ABMF”), a Delaware
9 nonprofit organization that serves as an American fundraising
10 partner supporting the Museum. In fiscal year 2024, ABMF
11 reported raising approximately \$3.72 million and more than \$1
12 million in grants and other expenditures supporting Museum-
13 related purposes, including exhibitions in the United States and
14 the Museum’s operations. The ABMF Form 990 tax filing is
15 attached as Exhibit 8.

16 27. The Museum’s commercial activity in the United States is not excluded
17 from the commercial-nexus analysis by 28 U.S.C. § 1605(h). Although Section
18 1605(h) excludes certain activities associated with the temporary exhibition or
19 display of qualifying cultural objects from the commercial-activity analysis under
20 Section 1605(a)(3), that exclusion does not apply to claims involving rights in
21 property taken in connection with the acts of Nazi Germany or governments
22 associated with Nazi Germany during the period beginning January 30, 1933, and
23 ending May 8, 1945. *See* 28 U.S.C. § 1605(h)(2)(A). The Watercolors were created
24 by and taken from Dina Gottliebowa Babbitt in 1944 while she was imprisoned at
25 Auschwitz and subjected to Nazi persecution. Accordingly, Section 1605(h) does
26 not exclude the Museum’s exhibition activity from the commercial-activity analysis
27 because Plaintiffs’ claims arise from the Nazis’ taking of the Watercolors during the
28 statutory period. In any event, the Museum engages in other commercial activity in

1 or directed to the United States, including publication, distribution, licensing,
2 marketing, online, and contractual activity independent of any temporary exhibition
3 protected by § 1605(h). These activities are sufficient to establish the necessary
4 commercial nexus between the United States and the Museum under the FSIA.

5 **B. DEFENDANT IS NOT IMMUNE FROM SUIT UNDER 28 U.S.C.**
6 **§ 1605(A)(2)**

7 28. Under 28 U.S.C. § 1605(a)(2), a foreign state is not immune from suit
8 in any case in which the action is based upon an act outside the territory of the United
9 States in connection with a commercial activity of the foreign state elsewhere and
10 that act causes a direct effect in the United States. To satisfy this exception, (1) the
11 action must be based upon an act that took place outside the United States; (2) the
12 act must have been taken in connection with a commercial activity; and (3) the act
13 must have caused a direct effect in the United States.

14 29. This action is based upon the Museum's acts outside the United States,
15 including its retention and commercial use of the Watercolors in Poland and
16 elsewhere, its publication, promotion, and distribution of images of the Watercolors,
17 and its repeated refusals to return the Watercolors to Dina Gottliebowa Babbitt and
18 Plaintiffs.

19 30. The Museum has used the Watercolors—or reproductions and images
20 of them—in exhibitions and publications outside the United States. For example, in
21 2011, the Museum published *Voices of Memory 7: Roma in Auschwitz*, a book that
22 reproduces all seven Watercolors alongside scholarly articles, survivor accounts,
23 photographs, and historical documents. One of the Watercolors appears on the
24 book's cover. The Museum offers the book in both electronic and paperback formats
25 through its online bookstores. The paperback has also been offered for sale to United
26 States purchasers through Amazon, and a PDF version is available through
27 Academia.edu, a for-profit company headquartered in San Francisco. Additionally,
28 the Museum participated in the 1989-1990 touring exhibition *Kunst zum Überleben—gezeichnet in Auschwitz* (Art for Survival—Drawn in Auschwitz) that

1 opened in Ulm, Germany, and subsequently traveled to Innsbruck, Dachau,
2 Frankfurt, Cologne, and Essen. Upon information and belief, that exhibition
3 included four of the Watercolors, or reproductions or images of them. Upon
4 information and belief, the Watercolors—or reproductions or images of them—were
5 also displayed in 1982-1983 exhibitions of works by Auschwitz prisoners in
6 Sweden, the Netherlands, the former Yugoslavia, and Israel. Upon information and
7 belief, the Museum's participation in those exhibitions and its publication and
8 distribution of the Watercolors—including by lending, licensing, displaying,
9 reproducing, promoting, or otherwise using the Watercolors—is conduct of a type
10 in which private museums and other private parties engage commercially.

11 31. Upon information and belief, the Museum's commercial use and
12 continued retention of the Watercolors caused a direct effect in the United States,
13 including by depriving Plaintiffs in the United States of possession of their property
14 and by disseminating and making available in the United States a Museum
15 publication reproducing all seven Watercolors while withholding the original works
16 from Plaintiffs.

17 **FACTUAL BACKGROUND**

18 **A. DINA GOTTLIEBOVA BABBITT AND THE CREATION OF** 19 **THE WATERCOLORS**

20 32. Dina Gottliebova Babbitt was an artist and Holocaust survivor who
21 later made her home and pursued her professional career as an animator in
22 Hollywood.

23 33. At the start of World War II, at age 16, Dina Gottliebova Babbitt was
24 admitted to Škola uměleckých řemesel in Brno, Czechoslovakia, a prestigious art
25 school where she studied graphic arts and sculpture. The following year, when she
26 was 17, Nazi restrictions barred her from continuing her studies because she was
27 Jewish.

28 34. During World War II, Dina Gottliebova Babbitt and her mother were
first deported to and imprisoned in the Theresienstadt ghetto in German-occupied

1 Czechoslovakia because they were Jewish. Their imprisonment was carried out
2 pursuant to Nazi orders authorizing the identification, persecution, and deportation
3 of Jews from the Protectorate of Bohemia and Moravia, including the June 21, 1939
4 *Verordnungen des Reichsprotektors über das jüdische Vermögen*, which applied the
5 Nuremberg Laws to the Protectorate, and the orders of SS-Obergruppenführer
6 Reinhard Heydrich, who as acting *Reichsprotektor* beginning in September 1941
7 directed the mass deportation of Bohemian and Moravian Jews to Theresienstadt.
8 On September 6 and 7, 1943, Dina Gottliebova Babbitt and her mother were
9 deported from Theresienstadt to Auschwitz-Birkenau, the Nazi concentration and
10 extermination camp in German-occupied Poland.

11 35. At Auschwitz, Dina Gottliebova Babbitt's artistic ability became
12 known to SS personnel. While imprisoned, she was ordered by Nazi SS physician
13 Dr. Josef Mengele to paint portraits of Roma prisoners whom Dr. Mengele studied
14 and on whom he conducted medical experiments as part of the Nazi regime's
15 pseudo-scientific racial studies.

16 36. Dina Gottliebova Babbitt did not undertake this work voluntarily. She
17 was a prisoner at Auschwitz, subject to the authority of the SS, and had no
18 meaningful ability to refuse Dr. Mengele's orders. Her creation of the Watercolors
19 spared her from the fate of nearly all the thousands of other Czech Jews deported
20 with her: murder in the gas chambers. Of the approximately 5,000 deportees from
21 Dina and her mother's transports who had not already perished, all were murdered
22 in the gas chambers around the time she created the Watercolors, except Dina, her
23 mother, and ten sets of twins selected by Dr. Mengele for medical experimentation.

24 37. Dr. Mengele closely inspected the Watercolors as Dina Gottliebova
25 Babbitt created them, underscoring the coercion and intimidation under which she
26 worked, and took the completed paintings from her. The Watercolors thus left
27 Dina's possession because they were taken from her while she was imprisoned at
28

1 Auschwitz—not because she consented to a sale, gift, commission, or any other
2 transfer.

3 38. Dina Gottliebova Babbitt signed and dated at least six of the
4 Watercolors “Dinah 1944.”

5 39. The seven surviving Watercolors depict Roma prisoners held at
6 Auschwitz-Birkenau. Each is an original work of art created by Dina Gottliebova
7 Babbitt.

8 40. Dina Gottliebova Babbitt never voluntarily sold, assigned, gifted,
9 abandoned, or consented to the transfer of ownership of the Watercolors to Dr.
10 Mengele, the SS, the Museum, or any other person.

11 **B. THE POST-WAR HISTORY OF THE WATERCOLORS AND**
12 **THE MUSEUM’S PURPORTED ACQUISITION**

13 41. Auschwitz was liberated in January 1945. Before its liberation,
14 however, Dina Gottliebova Babbitt and her mother had been forced from Auschwitz
15 on a death march and transferred to other camps. Dina therefore had no opportunity
16 to recover the Watercolors when Auschwitz was liberated. She ultimately
17 immigrated to the United States, where she pursued a professional artistic career as
18 an animator at various Hollywood studios.

19 42. The Museum does not contend that it obtained the Watercolors from
20 Dina Gottliebova Babbitt or with her authorization. Nor does the Museum identify
21 any voluntary sale, gift, or other transfer from Dina Gottliebova Babbitt to any
22 person in the chain through which it claims ownership.

23 43. The Museum later identified Dina Gottliebova Babbitt as the
24 Watercolors’ artist. Around 1969, a Museum official matched the “Dinah 1944”
25 signature on the Watercolors to Dina Gottliebova Babbitt’s signature on illustrations
26 she had prepared after the war for a book by Ota Kraus and Erich Kulka titled
27 *Továrna na smrt* (The Death Factory). Nearly four years later, the Museum
28 contacted Dina Gottliebova Babbitt and invited her to visit Auschwitz. Believing
that the Museum intended to return the Watercolors, Dina Gottliebova Babbitt

1 traveled to Auschwitz in June 1973. During that visit, she was interviewed for
2 approximately two hours and was shown several of the Watercolors, which the
3 Museum retrieved from storage. Dina Gottliebova Babbitt viewed and authenticated
4 each of the Watercolors and provided a recorded account of the circumstances in
5 which Dr. Mengele had ordered her to create them.

6 44. After Dina Gottliebova Babbitt authenticated the Watercolors during
7 her 1973 visit to Auschwitz, the Museum knew not only the identity of the artist but
8 also the circumstances under which the Watercolors had left her possession.
9 Nevertheless, the Museum retained the Watercolors and did not return them to Dina
10 Gottliebova Babbitt. In explaining its position, the Museum at times asserted that
11 the Watercolors belonged to Dr. Mengele rather than Dina Gottliebova Babbitt,
12 characterizing her as Dr. Mengele's "worker." On at least one occasion, a Museum
13 official communicated to Dina Gottliebova Babbitt that legally, the only one who
14 might have a claim on the paintings was Dr. Mengele, and he wasn't likely to
15 exercise it. But Dina Gottliebova Babbitt never consented to giving the Watercolors
16 to Dr. Mengele, nor did she sell, gift, or otherwise transfer them to him or anyone
17 else. Dr. Mengele simply took the completed Watercolors from her while she was
18 imprisoned at Auschwitz.

19 45. In 1977—after it knew of Dina Gottliebova Babbitt's identity and
20 authorship—the Museum acquired a seventh Watercolor from an individual even
21 though that individual also had not obtained title from Dina Gottliebova Babbitt
22 through a sale, gift, or other transaction.

23 46. The Museum now possesses all seven Watercolors and claims
24 ownership of them. Dina Gottliebova Babbitt never consented to the Museum's
25 acquisition or retention of the Watercolors. Nor has the Museum identified any sale,
26 gift, or other voluntary transfer by which Dina Gottliebova Babbitt conveyed the
27 Watercolors to anyone in the Museum's purported chain of title.

28

C. DINA GOTTLIEBOVA BABBITT’S EFFORTS TO RECOVER THE WATERCOLORS

47. Dina Gottliebova Babbitt did not relinquish her ownership claim to the Watercolors. She maintained that they belonged to her and undertook sustained efforts to obtain their return.

48. On June 26, 1997, Dina Gottliebova Babbitt formally requested, in a letter addressed to Museum Deputy Director Krystyna Oleksy, that the Museum return the Watercolors.

49. The Museum refused. In July 1997, it maintained that the Watercolors should remain at Auschwitz. Dina Gottliebova Babbitt also appealed to Poland’s Prime Minister in November 1997 for his personal assistance in retrieving the Watercolors.

50. Congress also supported and thereafter took up Dina Gottliebova Babbitt’s efforts to recover the Watercolors. Congressional efforts beginning in 1999 called for the return of the Watercolors and recognized her ownership claim. Legislation reported by the Senate Foreign Relations Committee stated that Dina Gottliebova Babbitt was the rightful owner of the Watercolors and urged the President to “make all efforts necessary” to retrieve them.⁶

51. On May 20, 1999, Dina Gottliebova Babbitt visited the Museum, accompanied by her daughter, her attorney, and an NBC News crew, and personally requested that the Museum return the Watercolors. Following that visit, the Museum issued a public statement acknowledging Dina Gottliebova Babbitt’s request, but asserting that it had acquired the Watercolors legally and in good faith and would retain them in its collection.

52. On May 25, 1999, the Museum issued a press release indicating that its own records reflect that, when its Acquisition Commission considered purchasing six of the Watercolors in 1963, its members understood that the works likely had

⁶ See S. 1401 § 781, at 150–51.

1 been created in the concentration camp by a prisoner. Those records identify no
2 voluntary transfer of ownership from the artist.

3 53. In a September 3, 1999 letter to Dina Gottliebova Babbitt, Museum
4 Deputy Director Krystyna Oleksy “ask[ed] [Gottliebova Babbitt] to kindly
5 reconsider [her] claims to the watercolor portraits.” Dina did not do so.

6 54. In subsequent negotiations with the Polish government, including in
7 February 2000, Dina Gottliebova Babbitt continued to maintain that she owned the
8 Watercolors and was entitled to their return.

9 55. In 2002, Congress enacted legislation recognizing Dina Gottliebova
10 Babbitt’s “moral right” to obtain the Watercolors and urging the President and Polish
11 authorities to make all efforts necessary to secure their return to her.⁷

12 56. Despite Dina Gottliebova Babbitt’s demands and the governmental
13 efforts undertaken on her behalf, the Museum continued to refuse to return the
14 Watercolors.

15 57. During her lifetime, Dina Gottliebova Babbitt repeatedly recounted her
16 creation of the Watercolors and the coercive circumstances in which she created
17 them. In 1998, she provided approximately six hours of videotaped testimony to the
18 Survivors of the Shoah Visual History Foundation (“Shoah Foundation”), which was
19 founded by Steven Spielberg.⁸ In 2009, shortly before her death, she gave an oral
20 history interview at Palo Alto High School that is available through the United States
21 Holocaust Memorial Museum.⁹ Those accounts document her authorship of the
22 Watercolors, the circumstances in which Dr. Mengele compelled her to create them,
23 his subsequent taking of them from her, and the Museum’s refusal to return the
24 Watercolors to her.

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26
27 ⁷ See Foreign Relations Authorization Act § 705.

28 ⁸ See *Dina Gottliebova-Babbitt—Testimony* 46122, USC Shoah Found. Visual
Hist. Archive, <https://vha.usc.edu/testimony/46122> (last visited Sept. 14, 2026).

⁹ See *Oral History Interview with Dina Babbitt*, U.S. Holocaust Mem’l Museum,
<https://collections.ushmm.org/search/catalog/irn37287> (last visited Sept. 14, 2026).

D. SUCCESSION TO DINA GOTTLIEBOVA BABBITT'S INTEREST IN THE WATERCOLORS AND PLAINTIFFS' EFFORTS TO RECOVER THEM

58. In April 2007, Dina Gottliebova Babbitt executed an Assignment of Interest assigning to her Revocable Living Trust (the “Trust”) all of her right, title, and interest in the seven Watercolors, naming her two daughters, Plaintiffs Michele Babbitt Kane and Karin Wendy Babbitt, as the designated beneficiaries. The assignment was governed by California law.

59. In March 2009, an interviewer asked Dina Gottliebova Babbitt what she intended to do with the Watercolors if they were returned to her. She explained that she intended to display them publicly to spread awareness about the Roma genocide—but that first, she would gather her family around them. Reflecting on the role the Watercolors had played in her survival at Auschwitz, she remarked—speaking of her mother, children, and grandchildren—“Everybody exists today because of these paintings.”

60. Dina Gottliebova Babbitt died in 2009. As the designated beneficiaries of the Trust that held right, title, and interest in the Watercolors, Plaintiffs Michele Babbitt Kane and Karin Wendy Babbitt, her daughters, thereafter succeeded to her interests in the Watercolors.

61. Plaintiffs continued their mother’s efforts to recover the Watercolors rather than acquiescing in the Museum’s claimed ownership.

62. Plaintiffs retained Polish counsel to pursue restitution. In 2018, counsel sent the Museum a formal pre-action letter of claim, and representatives of Plaintiffs met with counsel for the Museum in an effort to resolve the dispute. The Museum again maintained that the Watercolors must remain in its collection.

63. Plaintiffs then wrote to the Museum in July 2023 in a further effort to resolve the dispute through discussion.

64. In its September 2023 response, the Museum did not agree to return them.

1 65. On May 8, 2025, Plaintiffs’ attorney wrote to Polish Prime Minister
2 Donald Tusk, explaining that the Museum’s continuing refusal left Plaintiffs with
3 “only one option”—litigation against the Museum—and asking the Prime Minister
4 to assist in achieving a negotiated resolution.

5 66. Those efforts did not result in the return of any of the Watercolors. The
6 Museum continues to possess all seven and continues to claim them as its property.

7 **E. THE MUSEUM’S STATEMENTS REGARDING OWNERSHIP**
8 **OF THE WATERCOLORS**

9 67. The Museum’s own statements confirm key facts underlying Plaintiffs’
10 ownership claim.

11 68. The Museum has repeatedly acknowledged Dina Gottliebowa Babbitt’s
12 authorship of the Watercolors.

13 69. The Museum has also repeatedly acknowledged that Dina Gottliebowa
14 Babbitt created the Watercolors while imprisoned at Auschwitz, under the constant
15 threat that she and her mother would be murdered—directly linking the Nazi
16 regime’s and Dr. Mengele’s persecution of Dina to her being deprived of her
17 property in the Watercolors.

18 70. The Museum likewise acknowledges that it did not obtain the
19 Watercolors from Dina Gottliebowa Babbitt. The Museum identifies no sale, gift,
20 assignment, or other voluntary transfer through which Dina Gottliebowa Babbitt
21 relinquished ownership of the physical Watercolors.

22 71. Despite these acknowledgements, the Museum has at times asserted
23 that the Watercolors belonged to Dr. Mengele rather than Dina Gottliebowa
24 Babbitt—characterizing her as Dr. Mengele’s worker. On at least one occasion, a
25 Museum official told Dina that, as a legal matter, only Dr. Mengele might have a
26 claim to the Watercolors—and that he was unlikely to assert it.

F. DEFENDANT'S COMMERCIAL ACTIVITY IN THE UNITED STATES

72. The Museum does not confine its activities to Poland. It participates in commercial and cultural activities directed to and occurring in the United States, including activities involving exhibitions, publications, promotional materials, and institutional collaborations. Those activities also include, upon information and belief, licensing, sales and distribution, online transactions, advertising, and contractual arrangements of the type undertaken by private museums and other private market participants. The Museum's governing statute expressly authorizes a range of additional economic activity, and the Museum generates substantial own-source revenues from its operations, including publication sales and fees for guided tours and certain visitor passes.

73. Upon information and belief, the Museum's commercial activity in the United States extends beyond the Traveling Exhibition and includes activities unrelated to the Watercolors. The Museum markets and distributes publications, licenses images and other intellectual property, conducts online activities accessible to and used by United States customers, and collaborates or contracts with private companies and institutions in connection with activities directed to the United States. The Museum also operates an online bookstore through which it distributes and sells its publications directly to customers. Although general admission to the Museum is free, the Museum offers guided tours and certain visitor passes for a fee through its online reservation system and, upon information and belief, customers located in the United States have booked and paid for those services directly through that system. The Museum also maintains a significant financial and institutional relationship with the United States through ABMF, a Delaware nonprofit organization that serves as an American fundraising partner supporting the Museum. In fiscal year 2024, ABMF reported raising approximately \$3.72 million and more than \$1 million in grants and other expenditures supporting Museum-related purposes, including exhibitions in the United States and the Museum's operations.

1 74. Among other activities, the Museum participated in the creation and
2 international touring of the Traveling Exhibition, which the Museum and Musealia
3 have described as having been created together and which Musealia describes as a
4 co-production.

5 75. The Traveling Exhibition was developed and presented through
6 collaboration among the Museum, private exhibition entities including Musealia,
7 and host institutions. The Museum and Musealia publicly described the exhibition
8 as having been created together, and the exhibition included more than 700 original
9 artifacts. The Traveling Exhibition has repeatedly been presented in the United
10 States, including in New York, Kansas City, California, Boston, and Cincinnati. It
11 made its United States debut at the Museum of Jewish Heritage in New York in May
12 2019 and was subsequently presented at Union Station in Kansas City from June
13 2021 through January 2022, the Reagan Library in California from March 2023
14 through January 2024, Castle Park Plaza in Boston from March through September
15 2024, and Cincinnati Union Terminal from October 2025 through April 2026. In
16 April 2026, the Museum announced that the Traveling Exhibition would be
17 presented at the United States Holocaust Memorial Museum in Washington, D.C.,
18 from January 2027 through spring 2029.

19 76. From March 24, 2023, through January 28, 2024, the Traveling
20 Exhibition was presented as the Reagan Library Exhibition in Simi Valley,
21 California. Members of the public purchased admission to view the exhibition, and
22 the exhibition was extended due to demand. The Museum's annual report states that
23 the exhibition was "prepared by the Museum and Spanish company Musealia" and
24 attracted approximately 180,000 visitors in 2023. The Traveling Exhibition's other
25 United States presentations were likewise ticketed; approximately 45,000 tickets had
26 been sold before the Boston presentation opened, and tickets were required for the
27 Cincinnati presentation.
28

1 77. Upon information and belief, the Museum supplied objects, curatorial
2 content, images, expertise, or other materials used in connection with the Traveling
3 Exhibition and its presentation in the United States. Publicly available materials
4 describe the exhibition as a collaboration or co-production between the Museum and
5 Musealia and identify World Heritage Exhibitions and U.S. host institutions as
6 participants in its U.S. presentations. Upon information and belief, those
7 presentations involved contractual arrangements governing the use, transport,
8 custody, insurance, display, and return of Museum collection objects.

9 78. The Museum has also served as the organizer and content provider for
10 the traveling exhibition entitled *Forbidden Art*, which the Museum prepared using
11 enlarged photographic reproductions of works of art made illegally by prisoners of
12 German Nazi concentration camps and accompanying historical commentary and
13 archival materials from the Museum's collection. Prior to its 2013 presentation at
14 Temple Beth Shalom in Las Vegas, the Museum had presented *Forbidden Art* at
15 venues in Orchard Lake, Michigan; at Wayne State University in Detroit; at
16 Northeastern Illinois University in Chicago; and at the University of California, Los
17 Angeles. Museum Director Piotr M.A. Cywiński participated in and delivered
18 remarks at the Las Vegas opening in February 2013, and the Museum's public
19 account of the Las Vegas presentation describes the exhibition as part of a broader
20 U.S. tour of *Forbidden Art*. Upon information and belief, the Museum's
21 participation in the *Forbidden Art* tour of the United States involved contractual and
22 institutional arrangements with United States host institutions and other
23 collaborators governing the preparation, transport, display, and return of exhibition
24 materials.

25 79. The Museum has also engaged in commercial activity involving
26 publications directed to or distributed in the United States. The Museum operates a
27 publications department responsible for publishing, selling, and distributing
28 Museum publications and an online bookstore through which it sells publications

1 directly to customers. Museum publications have been distributed to institutions or
2 customers in the United States. Although the Museum's online bookstore has
3 temporarily suspended shipments to the United States because of customs
4 regulations and restrictions imposed by United States authorities and air carriers,
5 numerous Museum-published books remain available for purchase in the United
6 States through third-party sellers, including Amazon and eBay. In 2011, the
7 Museum published *Voices of Memory 7: Roma in Auschwitz*, which reproduces all
8 seven Watercolors alongside scholarly articles, survivor accounts, photographs, and
9 historical documents. One of the Watercolors appears on the book's cover. The
10 Museum offers the book in both electronic and paperback formats through its online
11 bookstores. The paperback has also been offered for sale through Amazon, and a
12 PDF version is available through Academia.edu, a website operated by a for-profit
13 company headquartered in San Francisco.

14 80. Upon information and belief, the Museum has also supplied or
15 authorized images for use by United States media and other third parties.

16 81. The Museum maintains online platforms that are accessible to users in
17 the United States and through which it presents its collection and promotes its
18 exhibitions, publications, and institutional activities. The Museum is also active on
19 United States-based social-media platforms, including Instagram, Facebook, X,
20 YouTube, and Threads, through which it presents and promotes its collection,
21 publications, exhibitions, and other institutional activities to United States users.

22 82. Through these and other activities, the Museum has purposefully
23 participated in exhibition, publication, promotion, retail, licensing, and other
24 commercial activities in the United States, including activities involving
25 reproductions of the Watercolors themselves.

26 **THIS ACTION IS TIMELY**

27 83. This action is timely under California Code of Civil Procedure § 338.2,
28 which was enacted precisely in order to provide a cause of action for California

1 residents and their heirs whose claims for damages or the recovery of artwork lost
 2 or stolen because of political persecution would otherwise be time-barred. The
 3 Watercolors were taken or otherwise lost as a result of the German Nazi regime's
 4 persecution of European Jews, including Dina Gottliebova Babbitt and her mother,
 5 Czech Jews, who were deported to Theresienstadt and Auschwitz-Birkenau under
 6 Nazi decrees, and subjected to ongoing persecution, including the taking of the
 7 Watercolors. Section 338.2(c) expressly permits Plaintiffs to commence an action
 8 within two years from the statute's September 16, 2024 enactment where, as here,
 9 Plaintiffs or their predecessor-in-interest knew the identity and location of the
 10 artwork before enactment. This action, commenced before September 15, 2026,
 11 falls within that period.

12 **FIRST CAUSE OF ACTION**
 13 **(Recovery, Title, Damages, and Ownership of Artwork Taken as a Result of**
 14 **Political Persecution Under California Code of Civil Procedure § 338.2**
Against Defendant)

15 84. Plaintiffs hereby incorporate by reference the allegations set forth in
 16 paragraphs 1 through 83 as if fully set forth herein.

17 85. Plaintiffs are heirs and successors-in-interest to Dina Gottliebova
 18 Babbitt, who was a California resident, and are entitled to pursue recovery of the
 19 Watercolors under California Code of Civil Procedure § 338.2(a).

20 86. The Watercolors are "artwork or other personal property" taken or
 21 otherwise lost as a result of "political persecution" within the meaning of California
 22 Code of Civil Procedure § 338.2. Dina Gottliebova Babbitt created the Watercolors
 23 while imprisoned at Auschwitz as a Jew under extreme duress imposed by German
 24 Nazi SS physician Dr. Josef Mengele, and Dr. Mengele took the completed
 25 Watercolors from her.

26 87. Dina Gottliebova Babbitt never voluntarily sold, assigned, gifted,
 27 abandoned, or otherwise transferred ownership of the Watercolors. Nor did any
 28 person through whom the Museum purports to trace its title obtain ownership from
 Dina Gottliebova Babbitt or with her authorization.

88. California substantive law governs this action. *See* Cal. Code Civ. Proc. § 338.2(e). Because the Watercolors were taken or otherwise lost as a result of political persecution, clear title was not conveyed to any subsequent purchaser or owner, including the Museum. *See id.* § 338.2(f). Accordingly, the Museum did not acquire title to the Watercolors through any of its purported acquisitions.

89. The Museum possesses the Watercolors, claims them as its own property, and has not returned them to either Dina Gottliebova Babbitt or Plaintiffs. Despite its knowledge of Dina Gottliebova Babbitt's ownership of the Watercolors and Plaintiffs' resulting ownership rights, the Museum continued throughout the remainder of Dina Gottliebova Babbitt's life, and has continued to the present, to possess, exercise dominion and control over, and use the Watercolors without authorization, including by possessing and using the Watercolors. The Museum's continued possession and use of the Watercolors are inconsistent with Plaintiffs' ownership rights and constitute conversion under California law.

90. Plaintiffs are the lawful owners of the Watercolors and are entitled to their immediate possession and return, damages and other financial recovery arising from the Museum's wrongful possession and use of the Watercolors during the remainder of Dina Gottliebova Babbitt's life and continuing to the present, together with the other relief authorized by California Code of Civil Procedure § 338.2.

SECOND CAUSE OF ACTION
(Declaratory Relief Under California Code of Civil Procedure § 1060 Against Defendant)

91. Plaintiffs hereby incorporate by reference the allegations set forth in paragraphs 1 through 90 as if fully set forth herein.

92. An actual controversy exists between Plaintiffs and the Museum concerning ownership and possession of the Watercolors. The Museum contends that it owns the Watercolors by virtue of its purported acquisitions. Plaintiffs contend that Dina Gottliebova Babbitt never transferred ownership, that the

1 Museum's predecessors possessed no title to convey, and that Plaintiffs are the
2 lawful owners of the Watercolors.

3 93. Pursuant to California Code of Civil Procedure § 1060, Plaintiffs are
4 entitled to a declaration that they are the lawful owners of the Watercolors and have
5 the right to their immediate return.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiffs respectfully request that the Court enter
8 judgment against Defendant as follows:

- 9 1. For an order declaring that Plaintiffs are the lawful owners of the
10 Watercolors and are entitled to their immediate possession;
- 11 2. For an order directing Defendant immediately to return the Watercolors
12 to Plaintiffs pursuant to California Code of Civil Procedure § 338.2;
- 13 3. For an award of damages and other financial recovery resulting from
14 Defendant's wrongful possession and retention of the Watercolors
15 under California Code of Civil Procedure § 338.2 and other applicable
16 law, in an amount to be determined at trial;
- 17 4. For reasonable attorneys' fees and costs as authorized by California
18 Code of Civil Procedure § 338.2(h);
- 19 5. For prejudgment and post-judgment interest; and
- 20 6. For such other and further legal and equitable relief as the Court deems
21 just and proper.

22 Dated: September 14, 2026

23 /s/ Anthony J. Lewis
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