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Monuments Men and Women Foundation;

StandWithUs; Jamie Kastner; Laura Baron Kastner;

Dr. David Milch Foundation

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

DAVID CASSIRER, *et al.*,

Plaintiffs,

v.

THYSSEN-BORNEMISZA
COLLECTION FOUNDATION,
an agency or instrumentality of
the Kingdom of Spain,

Defendant.

CASE No. CV 05-03459-JFW (Ex)
Hon. John F. Walter

**NOTICE OF MOTION AND
MOTION FOR LEAVE TO
FILE AMICI CURIAE BRIEF
OF MONUMENTS MEN AND
WOMEN FOUNDATION,
STANDWITHUS, JAMIE
KASTNER, LAURA BARON
KASTNER, AND DR. DAVID
M. MILCH FOUNDATION IN
SUPPORT OF PLAINTIFFS**

Date: March 30, 2026

Time: 1:30 p.m.

Courtroom: 7A

1 Please take notice that proposed Amici Curiae Monuments Men
2 and Women Foundation, StandWithUs, Jamie Kastner; Laura Baron
3 Kastner; Dr. David Milch Foundation (together, “Amici”) will, and
4 hereby do, move this Court for an order granting leave to file the amici
5 curiae brief attached as Exhibit A. This motion is based on the
6 supporting Memorandum of Points and Authorities, the Declaration of
7 Mary-Christine Sungaila, the attached amici curiae brief, the record in
8 this case, any additional papers which may be filed in this matter, and
9 any paper or argument which the Court may deem appropriate. No
10 hearing is requested in this motion.

11 Counsel for Plaintiffs have consented to the filing of this proposed
12 amici curiae brief. Declaration of Mary-Christine Sungaila, ¶ 2.
13 Counsel for Amici contacted counsel for Defendants regarding this
14 motion, and received no response from Defendant concerning consent or
15 lack thereof to the filing of the proposed amici curiae brief. *Id.*, ¶¶ 3-4.

16
17 **COMPLEX APPELLATE**
18 **LITIGATION GROUP LLP**

19
20 Dated: March 2, 2026

/s/ Mary-Christine Sungaila
Mary-Christine Sungaila
Attorney for *Amici Curiae*
Monuments Men and Women
Foundation, StandWithUs, Jamie
Kastner, Laura Baron Kastner, and
the Dr. David M. Milch Foundation

1 **Memorandum of Points and Authorities**

2 **I. Introduction**

3 As this case centers on a piece of art stolen during the Holocaust,
4 Amici, who are actively involved in efforts to educate the public about
5 the history of the Holocaust, the theft of art by the Nazi regime, and
6 efforts to recover that art and restore it to its rightful owners,
7 respectfully request leave of the Court to file the attached amici curiae
8 brief in support of Plaintiffs David Cassirer, et al. (collectively the
9 “Plaintiffs”).

10 **II. Interests of the Amici**

11 The Monuments Men and Women Foundation (“the Foundation”)
12 is a nonprofit organization, created to raise worldwide awareness about
13 the men and women who served in the Monuments, Fine Arts, and
14 Archives section of the U.S. and Allied militaries’ Civil Affairs division
15 during and after World War II; to honor their achievements; and to
16 complete their unfinished mission of returning missing art to the
17 rightful owners. Further information about the Foundation and its
18 mission can be found at <http://www.mmwf.org/>. The issues in the
19 pending motion are central to the Foundation’s mission, and the
20 Foundation previously filed amicus briefs in this matter in both the
21 Ninth Circuit and United States Supreme Court.

22 StandWithUs is a California-based organization advocating
23 against antisemitism. The StandWithUs Holocaust Education Center
24 (HEC), headquartered in Los Angeles, brings interactive Holocaust
25 education programs, films and curriculum to schools and communities
26 across North America, through in-person and virtual platforms. The
27 HEC’s custom-made, interdisciplinary programs are meant to
28 proactively educate students about the Holocaust and also respond to

1 instances of antisemitism experienced by students at specific schools or
2 communities. The HEC works affirmatively to address the widespread
3 deficiencies in information about the Holocaust, and to counter the
4 antisemitism connected with Holocaust denial and distortion. Further
5 information about StandWithUs and its mission can be found at
6 www.standwithus.com.

7 Jamie Kastner and Laura Baron Kastner are the director/
8 producer team behind *The Spoils*, a feature documentary about current
9 controversies surrounding the restitution of Nazi-era looted art, focused
10 on the collection of German-Jewish art dealer Max Stern, who was
11 forced to liquidate his family's Düsseldorf gallery in a forced Nazi "Jew
12 auction" in 1937, paying the proceeds to the Nazis and barely escaping.
13 Landing penniless in Montreal he rose to become Canada's most
14 successful art dealer. A restitution project in his name has become one
15 of the world's most successful. The film documents two restitution
16 claims against Düsseldorf and two botched attempts by the city to hold
17 exhibitions in Stern's honor, exposing the heart of the current crisis in
18 the art world around the restitution of Nazi-looted art. After
19 premiering at the Munich International Film Festival in 2024 the film
20 has gone on to play in more than a dozen additional festivals around the
21 world to great media and critical acclaim. Jamie Kastner has directed
22 11 other feature documentaries, including *There Are No Fakes* (2019),
23 which uncovered "the largest art fraud in the world" operating in
24 Canada's far north, credited by Canadian police with inspiring them to
25 launch an investigation into the fraudulent reproduction of paintings of
26 legendary Indigenous painter Norval Morrisseau, leading to 8 arrests,
27 40 charges laid, and the seizure of more than 1,000 fake paintings in
28 2023.

1 The Dr. David M. Milch Foundation is a nonprofit organization
2 dedicated to arts for change and youth mentoring. Among its core focus
3 areas is combating antisemitism, hate, and historical distortion through
4 art, education, and immersive storytelling. The Milch Foundation’s
5 flagship program, Lives Eliminated, Dreams Illuminated (LEDI),
6 focuses on education about the Holocaust and dangerous recent
7 escalation of antisemitism. LEDI has served thousands of students in
8 person and virtually across Florida, New England, New York, and New
9 Jersey, partnering with schools, educators, and national organizations
10 to provide structured Holocaust and antisemitism education grounded
11 in historical accuracy, emotional resonance, and contemporary
12 relevance.

13 **III. Amicus Briefs are Appropriate and Useful**

14 Submission of amicus curiae briefs has been permitted in federal
15 district courts when the amicus is capable of providing “unique
16 information or perspective” on the case. *Ryan v. Commodity Futures*
17 *Trading Comm’n*, 125 F.3d 1062, 1063 (7th Cir. 1997); see also *NGV*
18 *Gaming, Ltd. v. Upstream Point Molate, LLC*, 355 F.Supp.2d 1061, 1067
19 (N.D. Cal. 2005) (stating “[d]istrict courts frequently welcome amicus
20 briefs from non-parties concerning legal issues that have potential
21 ramifications beyond the parties directly involved or if the amicus has
22 ‘unique information or perspective that can help the court beyond the
23 help that the lawyers for the parties are able to provide.’”). District
24 courts in California have found that “[e]ven when a party is very well
25 represented, an amicus may provide important assistance to the court.”
26 *Jamul Action Comm. v. Stevens*, 2014 WL 3853148 at *6 (E.D. Cal.
27 2014) (citing *Neonatology Assocs., P.A. v. Comm’r of Internal Revenue, et*
28 *al.*, 293 F.3d 128, 132 (3d Cir. 2002).

1 As discussed above, Amici are all actively involved in efforts to
2 educate the public about the history of the Holocaust, the theft of art by
3 the Nazi regime, and efforts to recover that art and restore it to its
4 rightful owners. Amici's experience and expertise in these areas
5 provides useful historical background to the court, as illustrated by the
6 Monuments Men and Women Foundation's prior amicus briefs in this
7 matter at the Ninth Circuit and United States Supreme Court.

8 **IV. Conclusion**

9 For these reasons, Amici move for leave to submit the attached
10 brief in support of the Plaintiffs.

11
12 Respectfully submitted,

13 **COMPLEX APPELLATE**
14 **LITIGATION GROUP LLP**

15 Dated: March 2, 2026

16 /s/ Mary-Christine Sungaila
17 Mary-Christine Sungaila
18 Attorney for *Amici Curiae*
19 Monuments Men and Women
20 Foundation, StandWithUs, Jamie
21 Kastner, Laura Baron Kastner, and
22 the Dr. David M. Milch Foundation
23
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Exhibit A

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1 **Interests of the *Amici Curiae***¹

2 The Monuments Men and Women Foundation (“the Foundation”)
3 is a nonprofit organization, created to raise worldwide awareness about
4 the men and women who served in the Monuments, Fine Arts, and
5 Archives section of the U.S. and Allied militaries’ Civil Affairs division
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19 proactively educate students about the Holocaust and also respond to
20 instances of antisemitism experienced by students at specific schools or
21 communities. The HEC works affirmatively to address the widespread
22 deficiencies in information about the Holocaust, and to counter the
23 antisemitism connected with Holocaust denial and distortion. Further
24

25 ¹ No counsel for a party wrote this brief in whole or in part, and no
26 counsel or party made a monetary contribution intended to fund the
27 preparation or submission of this brief. No person other than the *amici*
28 *curiae*, their members, or their counsel made a monetary contribution
intended to fund its preparation or submission.

1 information about StandWithUs and its mission can be found at
2 www.standwithus.com.

3 Jamie Kastner and Laura Baron Kastner are the director/
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8 auction" in 1937, paying the proceeds to the Nazis and barely escaping.
9 Landing penniless in Montreal he rose to become Canada's most
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13 exhibitions in Stern's honor, exposing the heart of the current crisis in
14 the art world around the restitution of Nazi-looted art. After
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21 launch an investigation into the fraudulent reproduction of paintings of
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23 40 charges laid, and the seizure of more than 1,000 fake paintings in
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26 dedicated to arts for change and youth mentoring. Among its core focus
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1 flagship program, Lives Eliminated, Dreams Illuminated (LEDI),
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Amici Curiae Brief in Support of Plaintiffs

I. Introduction

For two decades, the parties in this case have litigated whether plaintiffs are entitled to the return of a Camille Pissarro painting, *Rue Saint Honoré, après midi, effet de pluie*, stolen from Lilly Cassirer by the Nazis in 1939, and currently held by defendant Thyssen-Bornemisza Collection Foundation. For the last decade that dispute has turned on which law governs: the law of California or the law of Spain. The United States Supreme Court has twice reversed a determination that the law of Spain applies, first to require application of California’s choice of law rules and most recently in light of the statutory choice of law rule California enacted in AB 2867, codified at California Code of Civil Procedure section 338(c)(6). *Cassirer v. Thyssen-Bornemisza Collection Found.*, 596 U.S. 107, 114–15 (2022) (*Cassirer V*); *Cassirer v. Thyssen-Bornemisza Collection Found.*, 145 S. Ct. 1331 (2025) (*Cassirer VIII*).

All parties to this case agree that the plain language of section 338(c)(6) requires the application of substantive California law to this dispute. It is also undisputed that under substantive California law, the Thyssen-Bornemisza Collection Foundation has no valid title to the stolen painting because “thieves cannot pass good title to anyone,” and thus plaintiffs are entitled to its return. *Cassirer v. Thyssen-Bornemisza Collection Found.*, 89 F.4th 1226, 1235 (9th Cir. 2024) (*Cassirer VII*), *judgment vacated*, *Cassirer VIII*, 145 S. Ct. 1331. Indeed, the express purpose of the California Legislature in enacting section 338(c)(6) was to reverse the Ninth Circuit’s prior decision in this

1 case to apply the law of Spain as contrary to California’s public policy,
2 national policy, and international law. AB 2867, § 1(d).²

3 The Thyssen-Bornemisza Collection Foundation, however, has
4 argued to this Court that application of California Code of Civil
5 Procedure section 338(c)(6) is somehow inconsistent with federal law
6 and policy. *E.g.*, Dkt. 681-1 at 30–38. But that argument ignores the
7 express direction of the United States Supreme Court that California
8 choice of law rules be applied to this case, *Cassirer V*, 596 U.S. 107,
9 114–15, and that the application of those rules needed to be
10 reconsidered after the enactment of section 338(c)(6). *Cassirer VII*, 145
11 S. Ct. 1331.³ It is also entirely incorrect. As the California Legislature
12 recognized in AB 2867, the new statute requiring application of
13 substantive California law “aligns California law with federal laws,
14 federal policies, and international agreements prohibiting pillage and
15 seizure of works of art and cultural property and calling for restitution
16 of seized property, as embodied in the Hague Convention of 1907 (and
17 1899), the UNESCO 1970 Convention on the Means of Prohibiting and
18 Preventing the Illicit Import, Export and Transfer of Ownership of

19 _____
20 ² Absent a constitutional limitation, the California Legislature
21 “may certainly amend a statute to overrule a judicial decision,” *In re*
22 *Marriage of Fellows*, 39 Cal. 4th 179, 185 (2006), and apply the change
23 in law “to both pending and future cases.” *People v. Bunn*, 27 Cal. 4th
24 1, 17 (2002). “[W]hether the law of the state shall be declared by its
25 Legislature in a statute or by its highest court in a decision is not a
26 matter of federal concern.” *Erie R.R. Co. v. Tompkins*, 304 U.S. 64, 78
27 (1938).

28 ³ The Ninth Circuit also recognized that this question was governed
by California law when it certified the question to the California
Supreme Court and agreed to be bound by that court’s decision. *See*
Cassirer v. Thyssen-Bornemisza Collection Found., 69 F.4th 554, 571
(9th Cir. 2023) (*Cassirer VI*).

1 Cultural Property, the National Stolen Property Act of 1934, the
2 Holocaust Victims Redress Act, the Holocaust Expropriated Art
3 Recovery Act of 2016, and related federal executive branch policies and
4 international agreements.” AB 2867, § 1(k).

5
6 **II. The Nazis’ Campaign of Art Theft and the World’s Early**
7 **Response to It**

8 Throughout history, “[w]ar has exposed historic monuments and
9 works of art to two principal dangers: the danger arising out of the
10 practice of taking spoils during or at the close of hostilities, and the
11 danger of destruction from acts of war, especially artillery action and
12 aerial bombardment.” Charles de Visscher, “International Protection of
13 Works of Art and Historic Monuments” in *Law, Ethics and the Visual*
14 *Arts* 1, 1 (Merryman et al. eds., 5th ed. 2007). From the time of the
15 ancient Greeks through the Napoleonic wars, plunder by an invading
16 army was commonly accepted. Anthi Helleni Poulos, *The 1954 Hague*
17 *Convention for the Protection of Cultural Property in the Event of Armed*
18 *Conflict: An Historic Analysis*, 28 Int’l J. Legal Info. 1, 5–13 (2000)
19 (hereinafter *1954 Hague Convention Historical Analysis*). The Nazis’
20 mistreatment of the Jews, including the Cassirer family and the
21 confiscation of their painting, epitomized a new, third type of danger:
22 targeted annihilation of a people through destruction and a re-
23 engineering of cultural heritage.

24 During the Nazis’ ascension to power and the war-torn years that
25 followed, the seizure of art became a weapon – a way that the Nazi
26 government could achieve its “Final Solution” to eradicate Jewish
27 people and culture. Alexandra Minkovich, *The Successful Use of Laches*
28 *in World War II-Era Art Theft Disputes: It’s Only a Matter of Time*, 27

1 Colum. J.L. & Arts 349, 352 (2004). “[F]or Hitler, both the acquisition
2 and cleansing of art was a central part of his plan for a pure Germanic
3 race, his goal being ‘to eradicate a race by extinguishing its culture as
4 well as its people.’” Paulina McCarter Collins, *Has the “Lost Museum”*
5 *Been Found? Declassification of Government Documents and Report on*
6 *Holocaust Assets Offer Real Opportunity to “Do Justice” for Holocaust*
7 *Victims on the Issue of Nazi-Looted Art*, 54 Me. L. Rev. 115, 125 (2002).
8 As a result, the “prelude to the largest mass murder in modern history
9 was the largest robbery ever carried out.” Orna Artal, *Rethinking the*
10 *Application of Laches to Future Nazi-Era Art Restitution Claims Under*
11 *the HEAR Act*, 25 N.Y. State Bar Ass’n J. 1, 1–2 (Winter 2020).

12 During World War II, between “one-fourth and one-third of
13 Europe’s artistic treasure trove was pillaged by the Nazis in an effort to
14 realize Hitler’s vision for Germany as the cultural center of Europe.”
15 David Wissbroeker, *Six Klimts, a Picasso & a Schiele: Recent Litigation*
16 *Attempts to Recover Nazi Stolen Art*, 14 DePaul J. Art, Tech. & Intell.
17 Prop. L. Rev. 39, 40 (2004). “[M]ore than 100,000 pieces of art, worth at
18 least \$10 billion in total, are still missing from the Nazi era.” Marilyn
19 E. Phelan, *Scope of Due Diligence Investigation in Obtaining Title to*
20 *Valuable Artwork*, 23 Seattle U. L. Rev. 631, 660 (2000). As former U.S.
21 Ambassador to Austria and former chair of the Metropolitan Museum of
22 Modern Art in New York, Ronald Lauder, put it: “because of these large
23 numbers, every institution, art museum and private collection [likely]
24 has some of these missing works.” *Id.* Many of these art pieces have
25 found their way into American collections. See Stephen W. Clark,
26 *Selected World War II Restitution Cases*, SJ049 ALI-ABA 311 (2004)
27 (listing Nazi-looted art that has appeared in the Los Angeles County
28

1 Museum of Art, The Met, the Seattle Art Museum, the Art Institute of
2 Chicago, and other prominent museums).

3 “Beyond art directly looted by the Nazi officials, hundreds if not
4 thousands of valuable works of art were procured” from profiteers who
5 preyed on, and extracted “unconscionable economic advantage from”
6 desperate victims of Nazi persecution who sold the artworks in “fire
7 sales.” Artal, *supra*, at 1. Holocaust-era art recovery claims therefore
8 include not only, for example, art that “a Nazi soldier” took “from a
9 Jewish family’s apartment,” but also art that a “Jewish persecutee” sold
10 below its true value “while fleeing for his life.” *The Holocaust*
11 *Expropriated Art Recovery Act—Reuniting Victims with Their Lost*
12 *Heritage: Hearing on S. 2763 The Holocaust Expropriated Art Recovery*
13 *Act Before the S. Comm. on the Judiciary, Subcomm. on the Constitution*
14 *and Subcomm. on Oversight, Agency Action, Federal Rights and Federal*
15 *Courts*, 114th Cong. 2 n.3 (2016) (statement of Agnes Peresztegi).

16 After the War, the United States became one of the “consumer
17 countr[ies]” for art displaced during the Holocaust, as purchasers here
18 embraced the traditionally “lackadaisical ‘ask no questions’ commercial
19 conventions of the international art trade.” Phelan, *supra*, at 660–662.
20 Indeed, many art dealers facilitated the trafficking; they bought looted
21 art from the Nazis at bargain prices and then resold it for a handsome
22 profit in thriving wartime art markets. See Hector Feliciano, *The Lost*
23 *Museum: The Nazi Conspiracy to Steal the World’s Greatest Works of*
24 *Art* 118–19, 122–54 (1997) (describing the booming Paris art market
25 during the war, fueled by confiscated art and “the sudden arrival of
26 large numbers of German buyers with deep pockets”).

27 The Nazis’ spoliation of Jewish treasures was common knowledge
28 in the international community and the art world both during and after

1 the war. As early as 1943, the then-Director of The Met acknowledged
2 that Holocaust-era artworks were coming to the United States and
3 admonished his museum brethren: “Private individuals might continue
4 to operate in a ‘black market’ of antiquities in which no questions [are]
5 asked, but public institutions . . . [should] not very well connive in the
6 liquidation of the artistic patrimony of Europe and act as public
7 receivers of stolen goods.” Francis Henry Taylor, *Europe’s Looted Art:
8 Can It Be Recovered?*, N.Y. Times, Sept. 19, 1943. In 1947, *The New
9 Yorker* published a three-part series by renowned cultural commentator
10 Janet Flanner detailing the massive scope of the Nazi government’s
11 theft of Jewish and other “degenerate” art. Janet Flanner, *Annals of
12 Crime: The Beautiful Spoils*, New Yorker, Feb. 22, 1947, at 31; Janet
13 Flanner, *Annals of Crime: The Beautiful Spoils*, New Yorker, Mar. 1,
14 1947, at 33; Janet Flanner, *Annals of Crime: The Beautiful Spoils*, New
15 Yorker, Mar. 8, 1947, at 38.

16 In 1950, Ardelia Hall, a Fine Arts and Monuments Advisor to the
17 State Department, circulated a letter “to American universities,
18 museums, libraries, art dealers and book sellers, asking for their
19 continued cooperation in the recovery of dispersed cultural property.”
20 Ardelia R. Hall, *The Recovery of Cultural Objects Dispersed During
21 World War II* 339 (Aug. 27, 1951) U.S. Dep’t of State Bulletin. One year
22 later, the State Department published a bulletin written by Ms. Hall in
23 which it again called for assistance “in identifying cultural objects
24 improperly dispersed during World War II” and “prevent[ing] the
25 transfer of looted objects from one country to another.” *Id.* at 339–40.
26 The State Department reminded those entities that “[t]he introduction
27 of looted objects into the United States is . . . contrary to the general
28 policy of [the U.S.] Government,” and that “[i]t is, of course, an

1 undeniable fact that works of art lost through the Nazi depredations of
2 European countries, which shocked the civilized world, will never be
3 saleable.” *Id.* at 339. Ms. Hall worked tirelessly for years to promote
4 the location and return of stolen art to its rightful owners.⁴

5 The record in this case is an example of just such illicit trade.
6 U.S. Military Law No. 52 of the post-war Allied Military Government of
7 Germany declared “null and void” “[a]ny prohibited transaction effected
8 without a duly issued license or authorization from Military
9 Government” and prohibited “any transfer, contract or other
10 arrangement made . . . with the intent to defeat or evade . . . the
11 restitution of any [such] property to its rightful owner.” U.S. Military
12 Law No. 52, 12 Fed. Reg. 2189, 2196 (Apr. 3, 1947), 10 C.F.R., 1947
13 Supp. § 3.15 (1947). According to a bill of sale in the record, on July 18,
14 1951, the Frank Perls Gallery of Beverly Hills arranged to sell the
15 Painting to Sidney Brody, an art collector in Los Angeles, for \$14,850.
16 Dkt. 682-2, at 8. A later invoice refers to the purported seller as “Dr. M.
17 Urban Collection, Munich.” *Id.* There is no evidence that the export
18 license required by U.S. Military Law 52 was obtained.

19
20 **III. The Policy of the United States and the Majority of the**
21 **International Community Favors the Return of Art Stolen**
22 **by the Nazis**

23 The United States was one of the first countries to prohibit
24 plunder of cultural property in the Lieber Code, promulgated by
25 President Lincoln during the Civil War and persisting thereafter in U.S.
26 military law. *1954 Hague Convention Historical Analysis* at 13–14.

27 _____
28 ⁴ <https://www.monumentsmenandwomenfnd.org/monuments-men-and-women/ardelia-hall> (last visited Feb. 27, 2026).

1 Since the early twentieth century, international laws and norms
2 accepted by Spain, the United States, and other countries delegitimize
3 trade in stolen cultural property; it has become scandalous *to acquire or*
4 *retain* objects of dubious provenance. See Katharine N. Skinner,
5 *Restituting Nazi-Looted Art: Domestic, Legislative and Binding*
6 *Intervention to Balance the Interests of Victims and Museums*, 15 Vand.
7 J. Ent. & Tech. L. 673, 697, n.168 (2013) (“[T]he Art Institute of
8 Chicago, the Detroit Institute of the Arts, the Metropolitan Museum of
9 Art, and the Museum of Modern Art[] have all returned pieces to the
10 heirs of Holocaust victims”).

11 Following the lead set by the United States in the Lieber Code,
12 the Hague Conventions of 1899 and 1907 on Land Warfare forbid
13 pillage and require restitution of civilian property looted during
14 wartime. 1899 Convention Between the United States of Am. &
15 Certain Powers, with Respect to the L. & Customs of War on Land., 32
16 Stat. 1803 (Apr. 11, 1902); 1907 Convention Between the United States
17 & Other Powers Respecting the L. & Customs of War on Land., 36 Stat.
18 2277 (Feb. 28, 1910) (collectively The Hague Conventions). Both were
19 ratified by the President of the United States upon the advice of the
20 Senate, and the Kingdom of Spain is a signatory to the 1899
21 Convention. Article 28 of the Hague Conventions prohibits “pillage of a
22 town or place,” and Article 46 prohibits confiscation of private property.
23 Article 56 provides that even state-owned works of art must be treated
24 as private property, and all seizure of works of art “is forbidden, and
25 should be made the subject of legal proceedings.” *Id.*⁵

26
27
28

⁵ While the 1907 Convention expanded on the 1899 Convention in other respects, these Articles exist in both.

1 The policy of the United States to recover and return such stolen
2 art has been carried out since 1943. That year, President Roosevelt
3 created the American Commission for the Protection and Salvage of
4 Artistic and Historical Monuments in War Areas chaired by Associate
5 Justice Owen J. Roberts (the “Roberts Commission”). *Records of the*
6 *American Commission for the Protection and Salvage of Artistic and*
7 *Historic Monuments in War Areas*, National Archives.⁶ This was
8 consistent with the 1943 Inter-Allied Declaration Against Acts of
9 Dispossession Committed in Territories Under Enemy Occupation of
10 Control, which reaffirmed that transfer of looted property would be
11 considered invalid even for “transactions apparently legal in form, even
12 when they purport to be voluntarily effected.”⁷ These policies were
13 implemented by, among others, the heroic members of the Monuments,
14 Fine Arts, and Archives section of the U.S. and Allied militaries’ Civil
15 Affairs division. *Civilian Agency Records RG 239*, National Archives.⁸
16 From 1945 to 1951, the Monuments Men and Women located and
17 returned over 3.5 million stolen works of art and cultural artifacts.⁹

18 This policy of returning war looted art to its rightful owners was
19 further made part of U.S. law in 1944 in the agreements following the
20 Bretton Woods Conventions. Resolution VI of those agreements,
21 “Enemy Assets and Looted Property,” requires signatories, including

22 _____
23 ⁶ <https://www.archives.gov/research/guide-fed-records/groups/239.html> (last visited Feb. 26, 2026).

24 ⁷ <https://history.state.gov/historicaldocuments/frus1943v01/d456>
25 (last visited Feb. 26, 2026).

26 ⁸ <https://www.archives.gov/research/holocaust/finding-aid/civilian/rg-239.html> (last visited Feb. 26, 2026).

27 ⁹ <https://www.nationalww2museum.org/visit/museum-campus-guide/liberation-pavilion/first-floor/monuments-men> (last visited
28 February 26, 2026).

1 the United States, to take steps “preventing the liquidation of property
2 looted by the enemy, locating and tracing ownership and control of such
3 looted property, and taking appropriate measures with a view to
4 restoration to its lawful owners.” Final Act of the United Nations
5 Monetary and Financial Conference (July 1944) Resolution VI.¹⁰ After
6 the war ended, General Eisenhower emphasized the continuing work of
7 locating and returning art looted by the Nazis in his speech to the
8 Metropolitan Art Museum on April 2, 1946, noting that “[s]ome of this
9 has been restored. Some, not easy to identify, is still under the care of
10 the captors.”¹¹

11 These policies were further solidified in 1954 at UNESCO’s first
12 conference which resulted in the Hague Convention for the Protection of
13 Cultural Property in the Event of Armed Conflict. *1954 Hague*
14 *Convention Historical Analysis* at 36. Article 4 point 3 of the 1954
15 Convention requires signatories to prevent theft of cultural property
16 and “refrain from requisitioning movable cultural property situated in
17 the territory” of another signatory.¹² Spain ratified that Convention in
18 July 1960. *Id.* The international community reiterated its commitment
19 to recovery of looted cultural property in 1970 in the Convention on the
20

21 ¹⁰ [https://timeline.worldbank.org/content/dam/sites/timeline/docs/
22 migrated/event01-brettonwoods-finalact-1849790.pdf](https://timeline.worldbank.org/content/dam/sites/timeline/docs/migrated/event01-brettonwoods-finalact-1849790.pdf) (last visited Feb.
23 26, 2026).

24 ¹¹ Barbara File, *This Weekend in Met History: April 2* (April 1, 2011),
25 [https://www.metmuseum.org/perspectives/this-weekend-in-met-history-
26 april-2](https://www.metmuseum.org/perspectives/this-weekend-in-met-history-april-2) (last visited Feb. 26, 2026).

27 ¹² Convention for the Protection of Cultural Property in the Event of
28 Armed Conflict with Regulations for the Execution of the Convention
(May 14, 1954), [https://www.unesco.org/en/legal-affairs/convention-
protection-cultural-property-event-armed-conflict-regulations-
execution-convention#item-3](https://www.unesco.org/en/legal-affairs/convention-protection-cultural-property-event-armed-conflict-regulations-execution-convention#item-3) (last visited February 26, 2026).

1 Means of Prohibiting and Preventing the Illicit Import, Export and
2 Transfer of Ownership of Cultural Property (Nov. 14, 1970).¹³ The state
3 parties to the Convention – including the United States and Spain –
4 agreed to “help[] . . . make the necessary reparations” of stolen cultural
5 property and to “undertake, consistent with the laws of each State[,]”
6 the return of cultural property, and to “admit actions for recovery of lost
7 or stolen items of cultural property brought by or on behalf of the
8 rightful owners.” *Id.* at art. 2, 13. The commitment to combat illicit
9 trade in stolen cultural property has thus become the established
10 international norm. Alexander Herman, *Restitution: The Return of*
11 *Cultural Artefacts* 75 (Lund Humphries 2021).

12 In the context of this larger recognition in U.S. and international
13 law of the impropriety of looting cultural artifacts, the need to remedy
14 the evils of the Nazi regime by returning stolen art to its rightful
15 owners (as in this case) has drawn special attention. The 1998
16 Washington Conference on Holocaust-Era Assets, organized and hosted
17 by the State Department, led to 44 nations – including Spain – signing
18 the Washington Principles. *See Washington Conference Principles on*
19 *Nazi-Confiscated Art* (Dec. 3, 1998) U.S. Dep’t of State, Office of the
20 Special Envoy for Holocaust Issues.¹⁴ The Washington Principles (and
21 successive declarations in the Vilnius Forum Declaration in 2000 and
22 the Terezin Declaration in 2009) call on participating nations to set
23 aside legal formalities in pursuit of reaching “just and fair solution[s]”
24

25 ¹³ [https://www.unesco.org/en/legal-affairs/convention-means-](https://www.unesco.org/en/legal-affairs/convention-means-prohibiting-and-preventing-illicit-import-export-and-transfer-ownership-cultural)
26 [prohibiting-and-preventing-illicit-import-export-and-transfer-](https://www.unesco.org/en/legal-affairs/convention-means-prohibiting-and-preventing-illicit-import-export-and-transfer-ownership-cultural)
27 [ownership-cultural](https://www.unesco.org/en/legal-affairs/convention-means-prohibiting-and-preventing-illicit-import-export-and-transfer-ownership-cultural) (last visited Feb. 26, 2026).

28 ¹⁴ [https://www.state.gov/washington-conference-principles-on-nazi-](https://www.state.gov/washington-conference-principles-on-nazi-confiscated-art/)
[confiscated-art/](https://www.state.gov/washington-conference-principles-on-nazi-confiscated-art/) (last visited February 26, 2026).

1 in Holocaust cases. *Id.*; *Vilnius Forum Declaration* (Oct. 5, 2000)¹⁵;
2 *2009 Terezin Declaration on Holocaust Era Assets and Related Issues*
3 (June 30, 2009) U.S. Dep’t of State, Office of the Special Envoy for
4 Holocaust Issues.¹⁶ The Washington Principles reflect the signatories’
5 agreement that these claims should be resolved on their merits, rather
6 than on technicalities like the passage of time. These principles were
7 again reaffirmed by 34 nations, including the United States, in the Best
8 Practices adopted in 2024. *Best Practices for the Washington Principles*
9 *on Nazi-Confiscated Art* (Mar. 5, 2024) U.S. Dep’t of State, Office of the
10 Special Envoy for Holocaust Issues.¹⁷

11 The 2024 Best Practices are not merely toothless principles but
12 reflect longstanding United States and international law requiring the
13 restitution of private property stolen during war, and in particular by
14 the Nazis. In fact, there is an emerging body of important international
15 law scholarship demonstrating that agreements such as the Best
16 Practices, “although styled as legally nonbinding, should be afforded
17 substantial legal deference as an informal agreement,” which “tend to
18 establish customary international practices and often have powerful
19 legal and practical effects.” Raymond J. Dowd, *Taking the Profit out of*
20 *War: Why International law Requires Restitution of Nazi-Looted Art*
21 *Taking the Profit out of War: Why International law Requires*

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24 ¹⁵ <https://www.lootedart.com/MFV7EE39608> (last visited Feb. 26,
25 2026).

26 ¹⁶ <https://www.state.gov/prague-holocaust-era-assets-conference-terezin-declaration/> (last visited Feb. 26, 2026).

27 ¹⁷ <https://www.state.gov/office-of-the-special-envoy-for-holocaust-issues/best-practices-for-the-washington-conference-principles-on-nazi-confiscated-art> (last visited Feb. 26, 2026).

1 *Restitution of Nazi-Looted Art*, 94 Fordham Law L. Rev. Online 1, 16
2 (2026).

3 The federal government has similarly continued to enact
4 legislation to protect the rights of victims of the Nazi regime, including:

- 5 • the Holocaust Victims Redress Act, Pub. L. No. 105-158, 112
6 Stat. 15 (1998), which recognized that “consistent with the
7 1907 Hague Convention, all governments should undertake
8 good faith efforts to facilitate the return of private and public
9 property, such as works of art, to the rightful owners in
10 cases where assets were confiscated from the claimant
11 during the period of Nazi rule and there is reasonable proof
12 that the claimant is the rightful owner.” *Id.* § 202, 112 Stat.
13 at 17–18.
- 14 • the Holocaust Expropriated Art Recovery Act of 2016, Pub.
15 L. No. 114-308, 130 Stat. 1524 (2016) (codified at 22 U.S.C.
16 § 1621 note), which reaffirmed these principles and reopened
17 statutes of limitation to allow victims to sue for recovery of
18 their property; and,
- 19 • the Justice for Uncompensated Survivors Today Act of 2017,
20 Pub. L. No. 115-171, 132 Stat. 1288 (2018), which requires
21 the State Department to report on the extent to which
22 European Countries are honoring their treaty commitments
23 to identify and return Holocaust-era assets.

24 The Foundation’s argument that section 338(c)(6) is inconsistent
25 with federal law ignores this substantial history and the numerous
26 commitments and efforts the United States has made to prohibit the
27 wartime theft of art and return looted art to its rightful owners. The
28 California Legislature’s assessment that the newly enacted Code of

1 Civil Procedure section 338(c)(6) “align[s] California law with federal
2 laws, policies, and international agreements” (AB 2867, § 1(g) & (k)) is
3 thus entirely correct.

4
5 **IV. Conclusion**

6 Responding to the Ninth Circuit’s prior “*Erie* Guess” about
7 California law in this action, the California Legislature made clear in
8 AB 2867, enacting Code of Civil Procedure section 338(c)(6), that
9 California’s substantive law should apply to this dispute. Nothing in
10 federal law or policy prevents California from establishing the
11 applicable choice of law rule or applying its own substantive law to
12 protect the victims of Nazi aggression against the claims of current
13 holders of the victims’ stolen art. The Court should grant plaintiffs’
14 motion for summary judgment and deny the motion filed by the
15 Thyssen-Bornemisza Collection Foundation.

16
17 Respectfully submitted,
18 **COMPLEX APPELLATE**
19 **LITIGATION GROUP LLP**

20 Dated: March 2, 2026

21 /s/ Mary-Christine Sungaila
22 Mary-Christine Sungaila
23 Attorney for *Amici Curiae*
24 Monuments Men and Women
25 Foundation, StandWithUs, Jamie
26 Kastner, Laura Baron Kastner, and
27 the Dr. David M. Milch Foundation
28

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Monuments Men and Women Foundation;

StandWithUs; Jamie Kastner; Laura Baron Kastner;

Dr. David Milch Foundation

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

DAVID CASSIRER, *et al.*,

Plaintiffs,

v.

THYSSEN-BORNEMISZA
COLLECTION FOUNDATION,
an agency or instrumentality of
the Kingdom of Spain,

Defendant.

CASE No. CV 05-03459-JFW (Ex)
Hon. John F. Walter

**DECLARATION OF MARY-
CHRISTINE SUNGAILA IN
SUPPORT OF MOTION FOR
LEAVE TO FILE AMICI
CURIAE BRIEF OF
MONUMENTS MEN AND
WOMEN FOUNDATION,
STANDWITHUS, JAMIE
KASTNER, LAURA BARON
KASTNER AND THE DR.
DAVID M. MILCH
FOUNDATION IN SUPPORT
OF PLAINTIFFS**

Date: March 30, 2026

Time: 1:30 p.m.

Courtroom: 7A

1 I, Mary-Christine Sungaila, declare as follows:

2 1. I am a partner with the Complex Appellate Litigation Group
3 LLP and counsel for the Amici Monuments Men and Women
4 Foundation, StandWithUs, Jamie Kastner, Laura Baron Kastner and
5 the Dr. David M. Milch Foundation.

6 2. Counsel for Plaintiffs have consented to the filing of Amici's
7 proposed amici curiae brief.

8 3. On February 26, 2026, I contacted counsel for Defendant
9 regarding Amici's motion for leave to file the proposed amici curiae brief
10 in this matter.

11 4. I received no response from Defendant's counsel to my
12 request for leave to file this brief.

13
14 I declare under penalty of perjury under the laws of the United
15 State of America that the foregoing is true and correct. Executed on
16 March 2, 2026, at Newport Beach, California.

17
18 Dated: March 2, 2026

/s/ Mary-Christine Sungaila
Mary-Christine Sungaila

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Dr. David Milch Foundation

UNITED STATES DISTRICT COURT

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DAVID CASSIRER, *et al.*,

Plaintiffs,

v.

THYSSEN-BORNEMISZA
COLLECTION FOUNDATION,
an agency or instrumentality of
the Kingdom of Spain,

Defendant.

CASE No. CV 05-03459-JFW (Ex)
Hon. John F. Walter

**[PROPOSED] ORDER
GRANTING MOTION FOR
LEAVE TO FILE AMICI
CURIAE BRIEF**

Date: March 30, 2026

Time: 1:30 p.m.

Courtroom: 7A

1 For the reasons set forth in the moving papers, and good cause
2 appearing therefore,

3 IT IS HEREBY ORDERED THAT proposed amici Monuments
4 Men and Women Foundation, StandWithUs, Jamie Kastner and Laura
5 Baron Kastner, and the Dr. David M. Milch Foundation are permitted
6 to file their amicus brief attached as Exhibit A to their motion for leave
7 to file. Amici shall file their brief on the ECF system within five days of
8 this order.

9 IT IS SO ORDERED.

10
11 Dated: _____

John F. Walter
United States District Judge

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