

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA

Frequently Asked Questions (FAQ)

*A federal court authorized this notice. This is not a solicitation from a lawyer.
You are not being sued.*

- The proposed Settlement provides up to USD \$25.5 million (minus attorney’s fees and other costs) for social service projects to benefit Hungarian Jewish victims of Nazi persecution plus other benefits to settle claims brought on behalf of the Jewish victims of Nazi persecution from Hungary and their heirs.
- The Settlement resolves a lawsuit over whether the United States of America acted unlawfully in its handling and disposition of the “Hungarian Gold Train.” The United States denies the claims in the lawsuit but has agreed to a settlement without admitting that it is liable in any respect.
- **Your Legal Rights Are Affected Whether You Act Or Do Not Act. Please Read This Notice Carefully.**

Your Legal Rights and Choices		
IF I WANT TO:	What that means:	Write to Notice Provider by:
AGREE WITH SETTLEMENT	You should do nothing. Class Members who are Jewish victims of Nazi persecution become eligible for the possibility of service benefits. All Class members give up rights to ever be part of any other lawsuit about the legal claims in this case.	Not applicable.
OBJECT TO THE SETTLEMENT	Write to the Notice Provider about why you do not like the Settlement.	August 1, 2005
GO TO A HEARING	Ask to speak in Court on September 26, 2005 about the Settlement. In order to be eligible to speak, you must write to the Notice Provider.	August 1, 2005
EXCLUDE MYSELF	Have no right to receive social services from this Settlement. This is the only option that allows you to ever be part of any other lawsuit against the United States about the legal claims in this case. [The United States Government has the right to terminate the Settlement or reduce the amount paid to the Settlement Fund if there is a significant number of Opt-Outs, see question 16 for details.]	August 1, 2005

- These rights and options – **and the deadlines to exercise them** – are explained in this Notice.
- The Court in charge of this case has to decide whether to approve the Settlement. Funding for social service programs for the exclusive benefit of eligible Jewish Hungarian Nazi victims will

begin to be made only if the Court approves the Settlement as final and after appeals, if any, are resolved. Please be patient.

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION PAGE 3

- 1. Why is this Notice available?
- 2. What was the Hungarian Gold Train?
- 3. What is the lawsuit about?
- 4. Why is this a class action?
- 5. Why is there a Proposed Settlement?

WHO IS IN THE SETTLEMENT PAGE 4

- 6. How do I know if I am part of the Settlement?

THE SETTLEMENT BENEFITS – WHAT YOU GET PAGE 4

- 7. What does the Settlement provide?
- 8. How much will I be paid?
- 9. Why don't people get direct payments from the Settlement?
- 10. What else do I get?
- 11. Am I giving anything up?
- 12. Can I claim for the recovery of property on the Hungarian Gold Train if I have proof?

HOW TO GET SOCIAL SERVICE BENEFITS PAGE 6

- 13. How can I receive social service benefits?
- 14. When will I know if the Settlement is final?

YOUR RIGHTS – EXCLUDING YOURSELF FROM THE SETTLEMENT PAGE 7

- 15. How do I get out of the Settlement?
- 16. If I exclude myself, does it have any effect on the Settlement?
- 17. If I do not exclude myself, can I sue later?
- 18. If I exclude myself, can I receive any benefit from the Settlement?

YOUR RIGHTS – OBJECTING TO THE SETTLEMENT PAGE 8

- 19. How do I tell the Court that I do not like the Settlement?
- 20. What's the difference between Objecting and Excluding Myself?

IF YOU DO NOTHING PAGE 9

- 21. What happens if I do nothing at all?

THE LAWYERS REPRESENTING YOU PAGE 10

- 22. Do I have a lawyer in this lawsuit?
- 23. How will the lawyers be paid?

THE COURT'S FAIRNESS HEARING PAGE 11

- 24. When and where will the Court decide whether to approve the Settlement as final?
- 25. Do I have to come to the hearing?
- 26. May I speak at the hearing?

GETTING MORE INFORMATION PAGE 12

- 27. How do I get more information?

CONTACT US PAGE 12

Basic Information

1. Why is this Notice available?

This Notice was made available by the Court and is posted because your legal rights may be affected by the Settlement. Eligible victims of Nazi persecution may be entitled to receive a portion of the social service benefits of the Settlement, but only if it is approved as final by the Court.

The Court has ordered this Notice to be posted because you have a right to know about a proposed Settlement of a class action lawsuit that affects Hungarian Jewish Nazi victims and/or heirs as the borders of Hungary existed from 1939 to 1945. You have legal rights and choices to make before the Court decides whether to approve the Settlement.

This Notice explains:

- What the lawsuit is about.
- What your legal rights are.
- What the Settlement involves.
- What the benefits are and who is eligible to seek the benefits.

2. What was the Hungarian Gold Train?

The Hungarian Gold Train was a train of approximately 24 freight cars that contained personal property which was taken, seized, confiscated or stolen by the Hungarian government from Hungarian Jews. The personal property in issue was taken into custody by the United States Army on or about May 11, 1945 near Werfen, Austria and later moved to Salzburg, Austria.

3. What is the lawsuit about?

In 2001, plaintiffs, for themselves and on behalf of all persons who have claimed or at any time could claim any interest in the personal property contained on the Hungarian Gold Train, filed a lawsuit in the United States District Court for the Southern District of Florida against the United States Government. The case is entitled *Rosner, et al. v. United States of America*, Docket No. 01-1859-CIV-SEITZ. Federal District Judge Patricia A. Seitz is presiding over this class action.

This lawsuit claims that the United States of America violated various laws and regulations, including but not limited to breach of contract, the law of nations, the Constitution, and applicable military regulations, in its handling and disposition of the personal property on board the Hungarian Gold Train. The United States denies that it did anything wrong. The Settlement is not an admission of wrongdoing or an indication that any law was violated.

4. **Why is this a class action?**

In a class action, one or more people called class representatives sue on behalf of people who have similar claims. All those people are class members. One court resolves the issues for all class members, except for those who exclude themselves from the class.

5. **Why is there a Proposed Settlement?**

The Court has not decided in favor of Plaintiffs. Instead, both sides agreed to a Settlement. That way, they avoid the cost, risk, and delay of a trial and appeals, and ensure that the people affected will receive some benefit. The Class Representatives and attorneys for the Class concluded that the Settlement is best for all Class Members.

Who is in the Settlement?

6. **How do I know if I am part of the Settlement?**

To see if you are part of this Settlement, you first have to know if you are a Class Member.

The Court has said you are a Class Member if:

- You have claimed or at any time could claim any interest in the personal property on the Gold Train, including without limitation, all Persons whose personal property was taken, seized, confiscated, or stolen by the Hungarian government and/or its officers, employees, or agents pursuant to Decree 1600 of 1944, Decree 8306 of 1944, or any similar law, policy, or practice, and all heirs, estates, assigns, and survivors of such Persons.

The Settlement Benefits – What You Get

7. **What does the Settlement provide?**

The United States has agreed to pay up to USD \$25.5 million into a Settlement Fund. Any Court-approved attorneys' fees, expenses, and awards to the Named Plaintiffs will be deducted from the Settlement Fund. USD \$500,000 of the Settlement Fund will be used by a recipient institution (e.g., a museum) for use in identifying, acquiring, microfilming, cataloguing and making available an archival collection of documents and artifacts, for scholarly research and educational purposes, as well as for the use and benefit of Class Members, relating to the history of the Hungarian Gold Train and the looting of the Jewish Community of Hungary during World War II. The balance of the Settlement Fund, which will be approximately USD \$21 million,

the "Special Fund," will be used to provide social service programs for the benefit of eligible Jewish Hungarian Nazi victims.

The "Special Fund" will be disbursed to qualifying social service agencies in accordance with the terms of the distribution plan filed with the Court. This means that 42.5% will go to assist Hungarian Nazi victims in Israel; 22.7% to Hungary; 20.1% to the U.S.; 6.1% to Canada; 2.5% to Australia; and 6.1% to be allocated for the rest of the world.

8. How much will I be paid?

You will not receive a direct payment out of the Settlement. To be eligible to benefit from a social service program, you must have been born before May 8, 1945 and lived in the 1944 borders of Hungary sometime between 1939 and 1945 and meet qualifying criteria for "need." "Need" will be determined based upon criteria similar in nature to those used in that place for existing programs benefiting Nazi victims (*e.g.*, individuals' health, disability and financial situation). Class Members who did not live within the 1944 borders of Hungary between 1939 and May 8, 1945 are not eligible for any of the social service programs funded by this Settlement. The services provided to individual Class Members will be limited to the extent that funds are available.

The social service benefits available under the Settlement will only become available if the Court grants final approval of the Settlement.

9. Why don't people get direct payments from the Settlement?

The Settlement does not provide for direct payments to Class Members as compensation for property lost on the Gold Train. Instead, the money will fund social service programs benefiting eligible Class Members according to the Plan of Distribution. After years of litigation, the parties concluded that attempting to provide compensation payments directly to Class Members would be impractical because of the difficulties of determining which individuals had property on the Gold Train (or were heirs of such individuals), and because the administrative costs of determining which Class Members would be eligible for such compensation payments could very well equal or exceed the total size of the Settlement Fund.

10. What else do I get?

In addition to the social service benefits, the Settlement provides additional benefits, which include: (a) a public statement of acknowledgement from the United States of America about the events regarding the Gold Train property (the content of the statement by the United States is within its sole discretion); (b) the payment of USD \$500,000 to a reputable institution (*e.g.*, a museum) that will identify, acquire, microfilm, catalog, and make available for posterity and educational purposes, the history of the Hungarian Gold Train and the looting of the Jewish community in Hungary during World War II; and (c) an assurance that all documents from the World War II-era that relate to the Gold Train are declassified or will be considered for declassification.

11. Am I giving anything up?

If you are a Class Member, all decisions made by the Court in this lawsuit or about the Settlement Agreement will apply to you. If the Court approves the Settlement (and it is not overturned on appeal), you will have released the United States Government from any further claims about the issues in this lawsuit unless you exclude yourself as explained below, and you will not be able to sue the United States regarding these issues again. This is true even if you do not receive any assistance from a social service agency.

12. Can I claim for the recovery of property on the Hungarian Gold Train if I have proof?

There is, as noted, no individual claims program in this Settlement which would result in either a direct payment to you or in the recovery of personal property that was on the Gold Train. If you have evidence that your personal property (or of someone for whom you are an heir) was on the Gold Train when the U.S. accepted custody, you have the option of excluding yourself from the Settlement and thereby retaining your right to sue the United States Government at your own expense. You should be aware that the United States has asserted a number of legal defenses in this case and that, even if you have evidence that you (or someone from whom you are an heir) had personal property on the Gold Train, you would not necessarily prevail if you brought your own lawsuit.

How To Get Social Service Benefits

13. How can I receive social service benefits?

The precise criteria have yet to be determined. The Conference on Jewish Material Claims Against Germany (Claims Conference), in consultation with Class Counsel, Class Representatives and others, will develop recommendations for which social service agencies in the relevant countries should be funded as well as the specific programs. The proposed plan will be posted on the internet at www.HungarianGoldTrain.org by June 10, 2005. Class Members may comment on the proposed plan by August 1, 2005. Subsequently, the Judge will review the proposed plan and Class Members' comments. The Judge will have the power to determine the final plan. At the very least, to qualify for benefits, you will be required to contact an agency that the Judge has approved for funding. Local Jewish social services agencies or Jewish welfare assistance organizations (e.g., Jewish Family Services in North America) will be recommended.

After June 10, to find out which organization(s) is nearest you, please:

- Visit the website, www.HungarianGoldTrain.org;
- Call a phone number listed on page 12.

14. When will I know if the Settlement is final?

On September 26, 2005, at 10:00 a.m., the Court will hold a hearing to decide whether to give final approval to the Settlement. Please note that there is often a delay after a Settlement like this is approved. For example, there may be appeals, and payments can't be made until appeals are finished. Because of this, there could be a delay of several months or even longer before a final Plan of Distribution is approved and funded. All developments on the status of the Settlement will be posted on the website: www.HungarianGoldTrain.org.

Your Rights – Excluding Yourself From the Settlement

15. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send a letter or other written document, personally signed by you, saying that you want to be excluded from the Class. In addition to stating that you want to be excluded from the Class, be sure to include your name, address, telephone number and one of the following statements:

- **For Hungarian Nazi Victims:** "I request to be excluded from the settlement in *Rosner, et al. v. United States of America*, Case No. 01-1859-CIV-SEITZ (USDC Southern District of Florida). I affirm that I lived in the 1944 borders of Hungary sometime between 1939 and 1945 and my family had property seized, confiscated or stolen by the Hungarian government pursuant to Decree 1600 of 1944, Decree 8306 of 1944, or other similar Hungarian law, policy or practice that could have been on the Hungarian Gold Train."
- **For Heirs of Victims:** "I request to be excluded from the settlement in *Rosner, et al. v. United States of America*, Case No. 01-1859-CIV-SEITZ (USDC Southern District of Florida). I affirm that I am a legal heir to someone who lived in the 1944 borders of Hungary sometime between 1939 and 1945 and who had property seized, confiscated or stolen by the Hungarian government pursuant to Decree 1600 of 1944, Decree 8306 of 1944, or other similar Hungarian law, policy or practice that could have been on the Hungarian Gold Train."

You must mail your written request for exclusion **POSTMARKED** no later than August 1, 2005, to:

Hungarian Gold Train Notice Provider
P.O. Box 1570
New York, NY 10159
U.S.A.

You cannot exclude yourself by telephone or by e-mail.

If you ask to be excluded, you will not be eligible for any benefits from the Settlement, and you cannot object to the Settlement. You will not be bound by anything that happens in this lawsuit.

16. If I exclude myself, does it have any effect on the Settlement?

Yes. If more than 100 Hungarian victims of Nazi persecution, or more than 5,000 heirs of Hungarian victims of Nazi persecution, request to be excluded from the Settlement, the United States has the right to terminate the Settlement Agreement and declare it void. If more than 100 Hungarian victims of Nazi persecution opt out and the United States does not terminate the Agreement, the United States shall have the right to reduce the Settlement Fund by USD \$400 for each Hungarian victim of Nazi persecution that requests exclusion, and any reductions would be allocated to the country where the victim seeking exclusion resides. Should it select either option, the United States is required to notify the Court by 5:00 p.m. on or before September 12, 2005 of its decision whether to withdraw from the Settlement or to reduce its payment to the Settlement Fund.

17. If I do not exclude myself, can I sue later?

No. Unless you exclude yourself, you give up the right to sue the United States of America for the claims that this Settlement resolves. You must exclude yourself from this Class to start or continue your own lawsuit. Remember, the deadline for exclusion is August 1, 2005.

18. If I exclude myself, can I receive any benefit from the Settlement?

No. You will not be eligible for any social service benefits funded by this Settlement.

Your Rights – Objecting to the Settlement

19. How do I tell the Court that I do not like the Settlement?

If you are a Class Member and do not exclude yourself, you can tell the Court you do not like the Settlement or some part of it. You may object to the Settlement by, for example, telling the Court that you do not think the Settlement is fair or adequate, or that you object to the amount of attorneys' fees or costs requested by Class Counsel, which are described below in paragraph 23. The Court will consider your views on any subject related to the Settlement.

To object, your objection must be in writing. It **must** include **all** of the following information although it does not have to be in any formal legal format:

- The name and title of the lawsuit, *Rosner, et al. v. United States of America*, Case No. 01-1859-CIV-SEITZ.
- Your name, address and telephone number.
- Your signature.

- A statement that you are a Class Member, and that either: (1) you resided in Hungary between 1939 and 1945; or (2) you are the legal heir of someone who resided in Hungary between 1939 and 1945.
- A statement of each objection and the facts that support each objection.
- A statement as to whether you or your lawyer will ask to appear at the Fairness Hearing to talk about your objections, and if so, how long you will need to present your objections.

You must mail your objection to the Notice Provider. **The objection must be postmarked no later than August 1, 2005.** You do not have to appear personally in court. **Do not send objections to the Court or the Clerk's Office.** Send your objections to:

Hungarian Gold Train Notice Provider
P.O. Box 1570
New York, NY 10159
U.S.A.

You cannot object by telephone or by e-mail.

20. What's the difference between Objecting and Excluding Myself?

Objecting is telling the Court that you do not like something about the Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself, you cannot object to the Settlement or to the attorneys' fees, because the case no longer affects you, and you will not receive any benefits from the Settlement or be legally bound by it.

If You Do Nothing

21. What happens if I do nothing at all?

If you do nothing, you are permitting the Settlement to go forward. You might be eligible to receive social service benefits from the Settlement. You must meet all of eligibility criteria of the social service agencies that will receive money from the "Special Fund." If you are a Class Member and you do nothing, all of the Court's orders will apply to you whether you are eligible for benefits or not. You will not be able to start a lawsuit, be part of any other lawsuit or continue with a lawsuit against the United States Government about the legal issues in this case.

The Lawyers Representing You

22. Do I have a lawyer in this lawsuit?

The Court has appointed Class Counsel to represent you and all Class Members. *You will not be charged for these lawyers*, except that the Court may award Class Counsel fees out of the Settlement as explained below. Class Counsel may not obtain fees from you directly. If you want to be represented by your own lawyer, you may hire one at your own expense.

The names and address of Class Counsel are:

Steve W. Berman
R. Brent Walton
Hagens Berman Sobol Shapiro LLP
1301 Fifth Avenue, Suite 2900
Seattle, WA 98101
Tel. (206) 623-7292
Fax. (206) 623-0594
www.hbsslaw.com

Jonathan W. Cuneo
Michael A. Waldman
David W. Stanley
Cuneo, Waldman & Gilbert, LLP
317 Massachusetts Avenue N.E., Suite 300
Washington, D.C. 20002

Samuel J. Dubbin, P.A.
Jeffrey L. Kravetz, P.A.
Dubbin & Kravetz, LLP
701 Brickell Ave., Suite 1650
Miami, FL 33131

23. How will the lawyers be paid?

On June 17, 2005, Class Counsel will file a petition for fees and reimbursement of costs. That petition, which will be available at www.HungarianGoldTrain.org, will provide information on the work that Class Counsel has performed to investigate, prosecute and settle this case over a four year period, including reviewing the evidence and claims of hundreds of Class member, defending the complaint against the Defendant's efforts to have it dismissed, retaining and consulting with numerous experts, collecting relevant materials from the United States, Israel and Hungary and moving to certify the case as a class action.

Class Counsel will ask the Court to award attorneys' fees and reimbursement of expenses paid to prosecute this case of up to USD \$3.85 million, which will include out-of-pocket expenses. The Court may award this amount or less without further notice to the Class Members. Class Counsel will also ask the Court for an incentive award to some of the Plaintiffs who participated in the lawsuit.

If you choose to hire your own lawyer, you will be responsible for that lawyer's fees and expenses.

The United States is paying all costs of this Notice and other notices that may be required by the Court. That money will not come out of the Settlement Fund.

The Court's Fairness Hearing

24. When and where will the Court decide whether to approve the Settlement as final?

The Court will hold a Fairness Hearing on September 26, 2005, at 10:00 a.m., at the United States District Court for the Southern District of Florida, 301 N. Miami Ave., Miami, Florida. At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. The Court will decide whether to approve the Settlement and the motion for attorneys' fees, expenses, and incentive awards to plaintiffs. The hearing may be continued to a different date without additional notice, so it's a good idea to check the Settlement website, www.HungarianGoldTrain.org, for updated information.

25. Do I have to come to the hearing?

No, Class Counsel will answer questions the Court may have. Nonetheless, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary that you hire a lawyer to attend.

26. May I speak at the hearing?

If you wish to speak at the Fairness Hearing, you must submit a written request to speak for the Judge's consideration. Be sure to include your name, address, telephone number, and your signature. You must send your Notice of Appearance to the Notice Provider at:

Hungarian Gold Train Notice Provider
P.O. Box 1570
New York, NY 10159
U.S.A.

It must be postmarked no later than August 1, 2005. You cannot speak at the hearing if you excluded yourself from the Settlement. The Judge will decide whether to approve your request to speak.

DO NOT SEND YOUR REQUEST TO THE CLERK'S OFFICE OR THE COURT.

Getting More Information

27. How do I get more information?

This notice summarizes the Settlement. You can get a copy of the complete Settlement Agreement from the website www.HungarianGoldTrain.org or by contacting Class Counsel (see Question #22).

PLEASE DO NOT WRITE OR CALL THE COURT OR THE CLERK'S OFFICE FOR INFORMATION.

Contact US

Helpline Telephone Numbers

COUNTRY		TELEPHONE NUMBER
Australia	Australia	1 800 35 7208
Canada	Canada	1 800 562 0831
Hungary	Magyarország	00 800 737 47576
Israel	י ש ר א ל	1 80 921 4806
U.S.	United States	1 800 562 0831

If you are unable to reach the Hungarian Gold Train Settlement Helpline through one of the above numbers, ask your operator to place an international reverse charge (collect call) to the United States at the following number: 1-646-519-8701. You will not have to pay for this call. Please leave a message and an operator will call you right back.

For specific legal questions, you may contact Class Counsel at (206) 268-9363.