

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

IRVING ROSNER, *et al.*, on Behalf of Themselves and
All Others Similarly Situated, Plaintiffs

v.

UNITED STATES OF AMERICA, Defendant.
Case No. 01-1859-CIV-SEITZ

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT

A proposed settlement has been reached in *Rosner, et al. v. United States of America*, a class action lawsuit on behalf of all persons who have claimed (or at any time could claim) any interest in the personal property on the Hungarian Gold Train (a train of approximately twenty-four freight cars that contained personal property taken, seized, confiscated or stolen by the Hungarian government from Hungarian Jews) [“Hungarian Gold Train Settlement” or the “Settlement”] i.e. Jewish Hungarian victims of Nazi persecution and their heirs. This class action settlement may affect your rights. If you wish to comment upon, object to, or exclude yourself from the Hungarian Gold Train Settlement, you must do so following the procedures described in this Court-approved document. If you do nothing, you will be bound by the final judgment in this case.

This is not a lawsuit against you. Your participation in this lawsuit or acceptance of any benefit from its settlement will not cost you anything.

LEGAL BACKGROUND

On April 8, 2005, the United States District Court for the Southern District of Florida preliminarily approved the Hungarian Gold Train Settlement. The Complaint alleges that the United States mishandled the personal property contained on the Hungarian Gold Train after the U.S. Army took such property into its custody at the conclusion of World War II and that the United States improperly disposed of the property. For more details regarding these allegations, please visit the Hungarian Gold Train Settlement web site, www.HungarianGoldTrain.org, and review the First Amended Complaint and amendments thereto. The United States denies any legal liability related to the handling of personal property contained on the Hungarian Gold Train.

SETTLEMENT TERMS

Under the terms of the Hungarian Gold Train Settlement:

1. The United States has agreed to pay up to USD \$25.5 million into a Settlement Fund.
2. *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, described in point 3 below. 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. The difficulties of proof are compounded by the lack of records documenting whose property was on the train and where it eventually wound up.*
3. Approximately USD \$21 million will fund social service programs benefiting Class Members, born before May 8, 1945 who lived in the 1944 borders of Hungary some time between 1939 and 1945, who are in need. Only such Class Members will be eligible for social service benefits. Class Members who did not live within the 1944 borders of Hungary between 1939 and May 8, 1945 are not eligible to receive social service benefits.

The funds will be allocated pursuant to the terms of the distribution plan filed with the Court, and be disbursed over a period that could extend up to five years. “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). The services provided to individual Class Members will be limited to the extent that funds are available. A detailed proposed Plan of Distribution for such funds will be developed by the Conference on Jewish Material Claims Against Germany, in consultation with Class Counsel, Class Representatives and others. This plan will be available for review and comment by June 10, 2005 at www.HungarianGoldTrain.org. The Plan of Distribution will be submitted to the Court for its review and approval.

4. USD \$500,000 of the Settlement will fund an archival project to collect documents and artifacts relating to the history of the Hungarian Gold Train and looting of the Hungarian Jewish community during World War II. The archives will be available for scholarly research and educational purposes, Class Members’ use, and for future generations. Three experts will select a qualified research institution or museum to compile and maintain the archives.
5. In addition to the up to USD \$25.5 million, the United States will pay for class notice, that is, the cost for notifying Class Members of the Hungarian Gold Train Settlement.
6. At the end of the case, the United States Government will issue a statement of acknowledgement about the events regarding the Hungarian Gold Train. The United States Government solely will determine the contents of the statement. The United States also represents that, to the best of its knowledge, all World War II-era documents relating to the Hungarian Gold Train have been declassified. If any documents that have not been declassified are brought to its attention, the United States will review the documents to determine whether classification is warranted.
7. The Court will determine the appropriate amount of attorneys’ fees, expenses and costs to be awarded. Class Counsel will apply for an award of attorneys’ fees and costs in an amount that will not exceed USD \$3.85 million, plus incentive awards of up to a total of USD \$150,000, consisting of up to USD \$5,000 for each of the named plaintiffs for their efforts in prosecuting this case. Class Counsel’s application for fees, expenses and costs will be available for review and comment by June 17, 2005 at www.HungarianGoldTrain.org. Those amounts, if approved by the Court, will be paid (and deducted) from the USD \$25.5 million paid by the United States.

YOUR RIGHTS

Right to be Excluded from the Settlement (Opt Out)

If you want to exclude yourself from the Settlement, you must write a letter that says:

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 of 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.

For both victims and heirs, you must include your full name, address, and telephone number, and you must sign the letter yourself. Mail the letter to:

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

Your letter excluding yourself from the Settlement must be postmarked by August 1, 2005. You cannot exclude yourself by telephone or e-mail.

If you exclude yourself from the Settlement, you will not be bound by the Settlement. You also will not be able to benefit from the social service projects funded by the Settlement. If you exclude yourself from the Settlement, you will not be permitted to submit a written objection to the Settlement and you will not be allowed to oppose or comment about the Settlement at the Fairness Hearing, as described in “Right to Comment or Object” below.

If you do nothing or do not exclude yourself from the Settlement, you will be bound by the terms of the Settlement, if it is approved by the Court, and you may be able to benefit from the social service projects funded by the Settlement. However, you would not be able to bring your own lawsuit against the United States relating to the Hungarian Gold Train.

If more than 100 Hungarian Nazi victims, or more than 5,000 heirs of victims, request to be excluded from the Settlement, the United States shall have the right to terminate the Settlement Agreement. If more than 100 Hungarian Nazi victims request exclusion and the United States does not terminate the Agreement, the United States shall have the right to reduce the Settlement Fund by an amount equal to USD \$400 per victim who requests exclusion, and the reduction shall be allocated to the country in which the victim seeking exclusion resides.

Right to Comment or Object

Any written comment or objection to the Settlement must be postmarked by August 1, 2005. If your comment or objection to the Settlement is not postmarked by August 1, 2005, it may not be considered by the Court. The Court will decide whether Class Members who do submit timely objections will be permitted to speak at the Fairness Hearing.

The Court has scheduled a Fairness Hearing, which you may attend, on September 26, 2005, at 10:00 a.m., at the United States District Court for the Southern District of Florida, 301 N. Miami Avenue, Miami, Florida 33128, to consider whether to give final approval to the Settlement. The scheduled date of the Fairness Hearing provides Class Members with sufficient time to review and comment upon the Settlement and Plan of Distribution for the up to USD \$25.5 million.

If you do not exclude yourself from the Settlement, you may submit a written comment or objection. You may be represented by a lawyer of your choosing at your expense, but you need not use a lawyer to comment or object. If you wish to speak at the Fairness Hearing, your written submission should include a request of the Judge to consider that. The Court will consider timely submissions mailed to:

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

You cannot comment or object by telephone or e-mail.

Release of Claims

If the Settlement receives final approval from the Court and you do not exclude yourself, that is, opt out of the Settlement, you will release all claims, known or unknown against the United States that: (1) arise out of or

are related in any way to any or all of the acts, omissions, facts, transactions or occurrences that were directly or indirectly alleged, asserted, described, set forth or referred to in *Rosner, et al. v. United States of America*; and (2) are, were or could have arisen out of or been related in any way to the United States' possession and handling of the Hungarian Gold Train property. The complete release is set forth in the Settlement Agreement.

YOUR LEGAL RIGHTS AND CHOICES

If I want to:	What that means:	Must I write a letter?
Stay in the Settlement	I would agree to allow funding for social service programs for eligible victims from the Settlement Fund. If I qualify, I would be potentially eligible for social service. I give up the right to be part of any other lawsuit against the United States about the Hungarian Gold Train.	No
Object to the Settlement	I would like to stay in the Settlement, but tell the Court why I do not like the Settlement.	Yes, postmarked by August 1, 2005
Speak at the Fairness Hearing	I would like to ask the Court for the opportunity to speak at the Fairness Hearing on September 26, 2005.	Yes, postmarked by August 1, 2005
Exclude Myself	I do not want to take part in the Settlement or be bound by its terms. I will not be potentially eligible to receive social service benefits. I remain free to bring my own case against the U.S. Government. [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 page 3, full paragraph 3 for details.]	Yes, postmarked by August 1, 2005

More Information Is Available

This notice is only a summary of the Settlement. To review a complete copy of the Hungarian Gold Train Settlement, or any other information about the Settlement or case, you can contact Class Counsel—they are your lawyers – or the Notice Provider:

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

Call (toll free): 1-800-562-0831 from the U.S. and Canada
1-800-35-7208 from Australia

From anywhere else, please dial your international operator
to place a collect call to the U.S. at: 646-519-8701

E-mail: HGT@claimscon.org or visit: www.HungarianGoldTrain.org

Please check the web site periodically for updates about the Settlement.

Class Counsel Appointed by the Court

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