

No. 25-1226

**In The
Supreme Court of the United States**

JULIUS H. SCHOEPS, et al.,

Petitioners,

v.

SOMPO HOLDINGS, INC, et al.,

Respondents.

*ON PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE SEVENTH
CIRCUIT*

**BRIEF OF THE AMERICAN ASSOCIATION OF
JEWISH LAWYERS AND JURISTS AS *AMICUS*
CURIAE IN SUPPORT OF PETITIONER**

ARTHUR TRALDI
AMERICAN ASSOCIATION OF
JEWISH LAWYERS AND JURISTS
888 17th Street NW, Suite 400
Washington, DC 20006

HAL R. MORRIS,
Counsel of Record
MEGAN Q. WARSHAWSKY
SAUL EWING LLP
161 North Clark Street
Suite 4200
Chicago, Illinois 60601
(312) 876-7100
hal.morris@saul.com

QUESTION PRESENTED

Do Federal courts, consistent with U.S. policy, have authority to hear equitable claims related to the recovery of Nazi-looted artworks on their merits pursuant to the Holocaust Expropriated Art Recovery Act of 2016, Pub. L. No. 114-308, 130 Stat. 1524 (codified as amended at 22 U.S.C. § 1621 note) and its subsequent amendments?

TABLE OF CONTENTS

	Page(s)
QUESTION PRESENTED	i
TABLE OF AUTHORITIES	iii
INTEREST OF AMICUS CURIAE	1
SUMMARY OF THE ARGUMENT IN SUPPORT OF THE PETITIONER.....	4
ARGUMENT	8
I. Factual Background and Proceedings Below. 8	
a. Factual Background.	8
b. Proceedings Below.	9
II. This Case Presents Important Questions of Federal Law and Policy That Must Be Settled by This Court Per Rule 10(c).....	12
III. Congress Intends for Claimants to Litigate Restitution Claims Through the HEAR Act. 16	
a. The text and history of the Act support resolving Petitioners' claims on the merits.	16
b. Other Federal laws and policies support access to justice for Petitioners.	20
IV. Federal Courts Have Inherent Equitable Authority to Decide Nazi Art Restitution Claims	24
CONCLUSION	28

TABLE OF AUTHORITIES

Page(s)

CASES

<i>Boyle v. United Techs. Corp.</i> , 487 U.S. 500 (1988)	25
<i>Cassirer v. Thyssen-Bornemisza Collection Found.</i> , 107 F.4th 882 (9th Cir. 2023)	15
<i>Dooley v. United States</i> , 182 U.S. 222 (1901)	23
<i>Fed. Trade Comm’n v. Credit Bureau Ctr.</i> , 937 F.3d 764 (7th Cir. 2019)	24
<i>Kendall v. United States ex rel. Stokes</i> , 37 U.S. 524 (1838)	24
<i>Mitchell v. Robert DeMario Jewelry, Inc.</i> , 361 U.S. 288 (1960)	24
<i>Schoeps v. Sompo Holdings, Inc.</i> , 160 F.4th 815 (7th Cir. 2025)	7, 8, 23, 24
<i>Schoeps v. Sompo Holdings, Inc.</i> , 736 F. Supp. 3d 582 (N.D. Ill. 2024)	7, 8
<i>Von Saher v. Norton Simon Museum of Art at Pasadena</i> , 592 F.3d 954 (9th Cir. 2010)	25

CONSTITUTIONAL PROVISIONS

U.S. CONST., art. III, § 2	9
----------------------------------	---

STATUTES

Holocaust Expropriated Art Recovery Act of 2016, Pub. L. No. 114-308, 130 Stat. 1524 (codified as amended at 22 U.S.C. § 1621 note)	2, 3, 6, 9, 10, 12, 15, 16
Holocaust Expropriated Art Recovery Act of 2016, Pub. L. No. 114-308, 130 Stat. 1524 (codified as amended at 22 U.S.C. § 1621 note), § 2(6)	15, 16, 24, 26
Holocaust Expropriated Art Recovery Act of 2016, Pub. L. No. 114-308, 130 Stat. 1524 (codified as amended at 22 U.S.C. § 1621 note), § 2(7).....	16
Holocaust Expropriated Art Recovery Act of 2016, Pub. L. No. 114-308, 130 Stat. 1524 (codified as amended at 22 U.S.C. § 1621 note), § 2(8).....	16
Holocaust Expropriated Art Recovery Act of 2016, Pub. L. No. 114-308, 130 Stat. 1524 (codified as amended at 22 U.S.C. § 1621 note), § 3	16, 18, 21
Holocaust Expropriated Art Recovery Act of 2016, Pub. L. No. 114-308, 130 Stat. 1524 (codified as amended at 22 U.S.C. § 1621 note), § 3(2).....	3, 7
Holocaust Expropriated Art Recovery Act of 2016, Pub. L. No. 114-308, 130 Stat. 1524 (codified as amended at 22 U.S.C. § 1621 note), § 5(a).....	17

Holocaust Expropriated Art Recovery Act of 2016, Pub. L. No. 114-308, 130 Stat. 1524 (codified as amended at 22 U.S.C. § 1621 note), § 5(f)	23, 26
Holocaust Expropriated Art Recovery Act of 2025, Pub. L. No. 119-82, 140 Stat. 752	3, 15, 18
Holocaust Expropriated Art Recovery Act of 2025, Pub. L. No. 119-82, 140 Stat. 752, § 2(a)(1)(B)	18
Holocaust Expropriated Art Recovery Act of 2025, Pub. L. No. 119-82, 140 Stat. 752, § 2(a)(1)(C)	18
Holocaust Expropriated Art Recovery Act of 2025, Pub. L. No. 119-82, 140 Stat. 752, § 2(a)(3)(D)	18
Holocaust Expropriated Art Recovery Act of 2025, Pub. L. No. 119-82, 140 Stat. 752, § 2(b)	19
Holocaust Expropriated Art Recovery Act of 2025, Pub. L. No. 119-82, 140 Stat. 752, § 8.....	3
Holocaust Victims Redress Act, Pub. L. No. 105-158, 112 Stat. 15–18	6, 17, 21, 22
RULES	
SUP. CT. R 10(c)	7, 11
SUP. CT. R. 37.6.....	1

FED. R. CIV. P. 12(b)(1)	27
--------------------------------	----

OTHER AUTHORITIES

<i>About Us – Office of the Special Envoy for Holocaust Issues</i> , U.S. DEP’T OF STATE, https://www.state.gov/about-us-office-of-the-special-envoy-for-holocaust-issues/ (last visited May 19, 2026)	25
--	----

Anne Rothfeld, <i>Nazi Looted Art[:] The Holocaust Recs. Pres. Project</i> , PROLOGUE MAG. (THE U.S. NAT’L ARCHIVES & RECS. ADMIN., WASH., D.C.), Summer 2002, https://www.archives.gov/publications/prologue/2002/summer/nazi-looted-art-1 (last updated Nov. 10, 2022)	6, 21
---	-------

“Aryanization”, U.S. HOLOCAUST MEM’L MUSEUM, https://encyclopedia.ushmm.org/content/en/article/aryanization (Oct. 24, 2017)	1, 2
---	------

Claims Conference Center for the Study of Demography, <i>Holocaust Survivors Worldwide[:] A Demographic Overview</i> , CLAIMS CONF. ON JEWISH MATERIAL CLAIMS AGAINST GER. (Jan. 2024), https://www.claimscon.org/forms/Demographics/Demographics-report-Global-WEB2.pdf	12
--	----

<i>Claims Conf. Holocaust Poll</i> , SCHOEN CONSULTING (Mar. 2018), https://www.claimscon.org/wp-content/uploads/2018/04/Holocaust-Knowledge-and-Awareness-Study-%E2%80%93-Topline-Results-1-1.pdf	14
---	----

Complaint for Restitution and Unjust Enrichment, Schoeps v. Sompo Holdings, Inc., No. 1:22-cv- 07013 (N.D. Ill. Dec. 13, 2022)	9
Deuteronomy 16:20	1
Ellen Germain, <i>Progress on Restitution and Comp. of Nazi-looted Art</i> , DEP’T OF STATE, https://www.state.gov/progress-on-restitution- and-compensation-of-nazi-looted-art (Feb. 28, 2025)	5
First Amended Complaint for Restitution and Unjust Enrichment, Schoeps v. Sompo Holdings, Inc., No. 1:22-cv-07013, at ¶ 247 (N.D. Ill. May 31, 2023)	8, 9
<i>France v. Göring</i> , 2 Trial of the Major War Criminals Before the International Military Tribunal 1 (1947)	5
H.R. REP. NO. 114-141 (2015)	26
<i>Holocaust-Era Assets, Art Provenance and Claims Records and Research</i> , THE U.S. NAT’L ARCHIVES AND RECS. ADMIN., https://www.archives.gov/research/holocaust/art (last updated Jan. 19, 2022)	21
<i>Holocaust Survivors Worldwide[:] A Demographic Overview</i> , CLAIMS CONF. ON JEWISH MATERIAL CLAIMS AGAINST GER. (Jan. 2024), https://www.claimscon.org/forms/Demographics/D emographics-report-Global-WEB2.pdf	12

Irwin Cotler, <i>The Holocaust, Thefticide, and Restitution</i> , 20 Cardozo L. Rev. 601 (1998).....	1, 2, 4, 13
Joel K. Greenberg, <i>Holocaust Victims Are Still Fighting For Justice — Congress Can Give It To Them</i> , THE HILL, https://thehill.com/opinion/congress-blog/5631695-recovering-nazi-looted-art/ (Dec. 7, 2025, 11:00 AM)	3
<i>New Survey by Claims Conf. Finds Significant Lack of Holocaust Knowledge in the U.S.</i> , CONF. ON JEWISH MATERIAL CLAIMS AGAINST GER., https://www.claimscon.org/study/ (last visited May 14, 2026)	14
Omri Nahmia, <i>A Third of US Holocaust Survivors Live In Poverty, Jewish Orgs Try To Help</i> , THE JERUSALEM POST (Apr. 17, 2023 6:52 PM) https://www.jpost.com/diaspora/article-739478	12
Press Release, Michael R. Pompeo, Sec’y of State, U.S. Dep’t of State, Release of the JUST Act Report (July 29, 2020) (on file with the U.S. Dep’t of State)	25, 26
S.R. REP. NO. 114-394	15
Terezin Declaration on Holocaust Era Assets and Related Issues of 2009	6, 19, 20, 21

U.S. Dep’t of State, Bureau of Eur. and Eurasian Affs., Just. for Uncompensated Survivors Today (JUST) Act Report (Mar. 2020)	12, 13, 14, 25
U.S. Dep’t of State, Release of the JUST Act Report (July 29, 2020)	25
Washington Conference Principles on Nazi- Confiscated Art	20

INTEREST OF AMICUS CURIAE¹

The American Association of Jewish Lawyers and Jurists (“AAJLJ”) is an affiliate of the International Association of Jewish Lawyers and Jurists and is open to all members of the legal profession regardless of religion. The AAJLJ’s mission includes representing the human rights interests of the American Jewish community, which benefits all people irrespective of religion. The AAJLJ seeks legal remedies to achieve justice for victims of oppression through its participation in legal cases in the United States and abroad. The AAJLJ’s mission statement, “Justice, Justice Shall You Pursue” (Deuteronomy 16:20), compels support for Petitioners in this case, who deserve an opportunity to seek justice under American law, consistent with longstanding U.S. policy.

The impacts of Nazi policies were a universal affront to basic human rights. *See* Irwin Cotler, *The Holocaust, Thefticide, and Restitution*, 20 Cardozo L. Rev. 601, 615 (1998) (the actions of the Nazi regime constituted “an assault on the very foundations of international law and the international law of human rights and a foundational breach of the Nuremberg principles”). Beginning in or around 1933, so-called voluntary Aryanization was undertaken by the Nazi

¹ No party or their counsel either: (a) authored this brief in whole or in part; or (b) made a monetary contribution intended to fund the preparation or submission of this brief. *See* SUP. CT. R. 37.6. All parties have been informed of the filing of this brief and Amicus has not received any objections.

State to “encourage” Jewish individuals to sell their assets to Aryan Germans. “Aryanization”, U.S. HOLOCAUST MEM’L MUSEUM, <https://encyclopedia.ushmm.org/content/en/article/aryanization> (Oct. 24, 2017). Following *Kristallnacht*, “Forced Aryanization” mandated the sale or confiscation of Jewish assets. *Id.* This stripping of rights to personal property was but one of the ways Nazi policies – including the confiscation and coerced sale of Jewish-owned art – systematically dehumanized Jews and forced them to part with their possessions. See Cotler, *supra* p. 1, at 615 (“[W]e are talking about thefticide, - the greatest mass theft on the occasion of the greatest mass murder in history.”). It was also one stage in a greater genocidal process that culminated in the mass murder of over six (6) million Jews.

In 2016, the U.S. Congress unanimously passed the Holocaust Expropriated Art Recovery Act of 2016, Pub. L. No. 114-308, 130 Stat. 1524 (codified as amended at 22 U.S.C. § 1621 note) (the “HEAR Act” or “2016 HEAR Act”), in an effort to codify U.S. policy that would partially right the wrongs of Nazi policies and reunite lost or stolen art with its rightful owners. Ever since, illegitimate owners of such art have used procedural mechanisms to avoid restitution of Nazi-looted art. One commentator noted the lengths that possessors of Nazi-looted art have gone to in order to maintain possession:

[T]he lead attorney for a
major New York museum

asked me whether I was certain that an affidavit signed in the Dachau concentration camp, purporting to transfer an art collection, was the product of coercion. I stared at her in disbelief. She knew that the man who “signed” it, and his wife, were murdered within two months. The proposition that such a document might have reflected the free will of the inmate shows how far some institutions will go to avoid accountability.

Joel K. Greenberg, *Holocaust Victims Are Still Fighting For Justice — Congress Can Give It To Them*, THE HILL, <https://thehill.com/opinion/congress-blog/5631695-recovering-nazi-looted-art/> (Dec. 7, 2025, 11:00 AM).

Congress declared its purpose in enacting the HEAR Act was “[t]o ensure that claims to artwork and other property stolen or misappropriated by the Nazis are not unfairly barred by statutes of limitations but are resolved in a just and fair manner.” HEAR Act § 3(2). Congress reaffirmed its intentions by unanimously passing the Holocaust Expropriated Art Recovery Act of 2025, Pub. L. No. 119-82, 140 Stat.

752 (codified at 22 U.S.C. § 1621 note) (the “2025 HEAR Act”). In doing so, Congress emphasized that “[t]he intent of the Act is to permit claims to recover Nazi-looted art to be brought.” 2025 HEAR Act § 8.

AAJLJ has a strong interest in this Court granting certiorari, as doing so will give a voice to those surviving family members who lost everything under Nazi rule. *See* Cotler, *supra* p. 1, at 615 (“Whatever restitution takes place – and it is as much a moral as it is a juridical imperative – will never compensate for the unjust enrichment. One can seek to provide restitution for property; however, one can never provide restitution for the lives lost or for the destruction of a community.”).

Should this Court deny certiorari, Amicus’s mission and U.S. policy will suffer and the fundamental purpose of the HEAR Act will be frustrated.

SUMMARY OF THE ARGUMENT IN SUPPORT OF THE PETITIONER

This case provides an opportunity to clarify an important and recurring question of Federal law: whether the HEAR Act and its amendments preserve courts’ equitable authority to effectuate Federal policy by addressing Nazi theft of Jewish property during the Holocaust, or whether courts may dismiss such claims simply because the Act does not create a new cause of action.

The U.S. has long used the law to rectify crimes committed by Nazi Germany during the Holocaust. During the Nuremberg trials, Justice Jackson explained the nature of the persecution that Mendelson-Bartholdy and other victims of the Nazis suffered:

The wrongs which we seek to condemn and punish have been so calculated, so malignant, and so devastating, that civilization cannot tolerate their being ignored, because it cannot survive their being repeated.

France v. Göring, 2 Trial of the Major War Criminals Before the International Military Tribunal 1, 98-99 (1947).

Although Justice Jackson spoke of the evil of the Holocaust in the past tense, the consequences of Nazi policies persist to this day. One would think that 80 years after the end of World War II and the overthrow of the Nazi regime, it would no longer be “necessary to address Holocaust-era restitution”; sadly, that is not the case. Ellen Germain, *Progress on Restitution and Comp. of Nazi-looted Art*, U.S. DEP’T OF STATE, <https://www.state.gov/progress-on-restitution-and-compensation-of-nazi-looted-art> (Feb. 28, 2025). In recent decades, the U.S. government and the international community have given renewed attention to the ongoing consequences of Nazi theft. As the government has recognized, the Nazi regime

utilized racially and religiously exclusive and coercive policies to confiscate the artwork of Jewish individuals. This was but one aspect of their genocidal plan to exclude Jews and other persecuted groups from German society and eventually commit mass murder. Those artworks are still being researched and discovered, and their true provenance exposed.

Federal policy to redress the Nazis' practice of confiscating art prompted the enactment of various U.S. domestic and foreign policies, including the 2009 Terezin Declaration on Holocaust Era Assets and Related Issues; the Holocaust Victims Redress Act, Pub. L. No. 105-158, 112 Stat. 15–18 (1998); the 2016 HEAR Act; and the 2025 recodification of the HEAR Act. *See also* Anne Rothfeld, *Nazi Looted Art[:]* *The Holocaust Recs. Pres. Project*, PROLOGUE MAG. (THE U.S. NAT'L ARCHIVES & RECS. ADMIN., WASH., D.C.), Summer 2002, <https://www.archives.gov/publications/prologue/2002/summer/nazi-looted-art-1> (last updated Nov. 10, 2022). These policies reflect Congress's unqualified efforts to provide claimants with opportunities to recover appropriated Nazi-era artworks through our legal system. Yet, too often, the U.S. court system—as illustrated by the instant matter—has effectively impeded victims' access to the U.S. judiciary for such claims and pointed to jurisdictional and procedural bars to avoid resolving them on their merits. These barriers defy Congress's explicit, original intent in enacting these policies: to help long-persecuted claimants and heirs obtain some measure of

restitution for property taken from their families during the Holocaust.

Here, the District Court and the Seventh Circuit refused to hear Petitioners' claims on the merits on the grounds that the HEAR Act does not explicitly provide a cause of action for the recovery of Nazi-expropriated art. This position frustrates the express purpose of the HEAR Act, which plainly states its purpose is to expand court access for Holocaust survivors (and their heirs) who seek to recover Nazi-stolen artwork. *See* HEAR Act § 3(2).

Certiorari is warranted to address whether the HEAR Act effectuates its clear intention: to give parties like Petitioners the opportunity to have their claims, finally, assessed on the merits in U.S. courts. The Seventh Circuit's decision (1) implicates an important question of Federal law and policy – *i.e.*, whether Holocaust survivors and heirs have fair access to the U.S. court system to litigate Nazi-looted art claims – that must be settled by this Court pursuant to Rule 10(c); (2) frustrates Congress' explicit legislative intent in passing the HEAR Act; and (3) inappropriately disregards the judiciary's plenary authority to craft equitable remedies.

ARGUMENT

I. Factual Background and Proceedings Below.

a. Factual Background.

Petitioners are the heirs of Paul von Mendelssohn-Bartholdy (“Mendelssohn-Bartholdy”), a prominent Jewish banker and private art collector living in Germany when the Nazis took power. *Schoeps v. Sompo Holdings, Inc.*, 736 F. Supp. 3d 582, 589-90 (N.D. Ill. 2024), *aff’d* on other grounds, 160 F.4th 815 (7th Cir. 2025). Mendelssohn-Bartholdy’s private art collection – “one of the most prominent modern art collections in Europe” – notably included paintings by Vincent van Gogh, and specifically, one of his famous Sunflower paintings (“*Sunflowers*”). *Id.* As the Nazis gained power throughout the 1930s, they increasingly targeted and persecuted Mendelssohn-Bartholdy due to his religion. *Id.* at 590. The Nazis economically isolated Mendelssohn-Bartholdy; he was removed from the Berlin Stock Exchange, profits from his family bank rapidly declined, and his company was ultimately forcibly transferred to non-Jewish ownership. *Id.*

After being excluded from any income-producing activities, Mendelssohn-Bartholdy had few avenues to make a livelihood. *Id.* He was forced to liquidate his private art collection and, in 1934, he placed *Sunflowers* on consignment, which ultimately sold to a British-American heiress. *Id.* In 1987, *Sunflowers* was sold again, this time at the Christie’s auction house in London for \$40 million. *Id.* The

purchaser, Yasuda Fire and Marine Insurance Company (“Yasuda”), is the predecessor-in-interest to the current owner of *Sunflowers*. *Id.*

Sunflowers remained in Japan from 1987 to 2001. *Id.* Then, from September 2001 to January 2002, Yasuda loaned the painting to the Art Institute of Chicago. *Id.* at 590-91. Yasuda expressed reservations that the “Nazis [sic] confiscation problem may arise in American [sic] and in Holland.” First Amended Complaint for Restitution and Unjust Enrichment, *Schoeps v. Sompo Holdings, Inc.*, No. 1:22-cv-07013, at ¶ 247 (N.D. Ill. May 31, 2023). *See also Schoeps v. Sompo Holdings, Inc.*, 160 F.4th 815, 821, fn. 3 (7th Cir. 2025). Nonetheless, *Sunflowers* was shown in Chicago and then returned overseas. *Schoeps*, 736 F. Supp. 3d at 591.

b. Proceedings Below.

On December 13, 2022, Petitioners sued Sompo Holdings, Inc. (“Sompo Holdings”), Sompo International Holdings Ltd. (“Sompo International”), Sompo Japan Insurance, Inc. (“Sompo Japan”), and Sompo Fine Art Foundation (“Sompo Foundation”), in the Northern District of Illinois seeking recovery of *Sunflowers* (or the current fair value of the painting), damages, and injunctive relief. *See generally* Complaint for Restitution and Unjust Enrichment, *Schoeps v. Sompo Holdings, Inc.*, No. 1:22-cv-07013 (N.D. Ill. Dec. 13, 2022). Petitioners raised seven claims under Illinois State law, including but not limited to replevin, conversion, trover, unjust enrichment, and breach of duty.

On May 31, 2023, Petitioners amended their complaint. *See generally* First Amended Complaint for Restitution and Unjust Enrichment, Schoeps v. Somp Holdings, Inc., No. 1:22-cv-07013 (N.D. Ill. May 31, 2023). This time Petitioners brought eight claims under Illinois State law, including but not limited to replevin, unjust enrichment, trover, and breach of duty (Counts I to VIII) (the “State Claims”). Petitioners also brought claims for restitution and unjust enrichment under the Federal common law (Counts IX and X) (the “Federal Common Law Claims”) and pursuant to the Court’s plenary equitable authority under Article III, Section 2 of the U.S. Constitution (the “Equitable Claims”; together with the Federal Common Law Claims, the “Federal Claims”). Petitioners asserted their claims were timely under the 2016 HEAR Act.

Defendants moved to dismiss and the District Court granted the motion. The District Court held it lacked Federal subject matter jurisdiction over the Federal Claims, asserting no such claims existed under the Federal common law because there was no conflict between Federal policy and Illinois State law. The Court further held that its plenary equitable authority was an insufficient basis to hear claims that otherwise do not arise under Federal law or diversity jurisdiction. As to the State Claims, the District Court held that while the 2016 HEAR Act’s extension of the State’s limitations period was sufficient to vest the court with Federal subject matter jurisdiction, it still lacked personal jurisdiction over Defendants.

Petitioners appealed to the Seventh Circuit, arguing the District Court abused its discretion by refusing them the opportunity to file a second amended complaint. The Seventh Circuit affirmed. As to the Federal Claims, the Seventh Circuit held that because the 2016 HEAR Act explicitly states, “Nothing in this Act shall be construed to create a civil claim or cause of action under Federal or State law,” there was no “implied” Federal cause of action and therefore no implied remedy. It also held that while U.S. foreign policy supports restitution of Nazi-looted art between private parties, Petitioners failed to establish a conflict between State law and Federal policy as required for the invocation of Federal common law. As to the State Claims, the Seventh Circuit agreed there was no personal jurisdiction over Defendants and declined to do a full jurisdictional analysis.

On December 18, 2025, Petitioners filed a petition for rehearing, which the Seventh Circuit denied. On April 22, 2026, Petitioners filed a Petition for Writ of Certiorari to this Court, which was docketed on April 29, 2026.

For the reasons articulated above, certiorari is warranted because the Seventh Circuit’s decision (1) raises important issues of Federal law which should be addressed by this Court, (2) conflicts with Federal policy to facilitate access to the courts for claims like Petitioners’, as stated in the HEAR Act; and (3) fails to recognize courts’ plenary equitable authority to hear restitution claims. Accordingly, this Court

should grant certiorari and reverse the Seventh Circuit's erroneous decision.

II. This Case Presents Important Questions of Federal Law and Policy That Must Be Settled by This Court Per Rule 10(c).

This Court's Rule 10(c) contemplates that a writ of certiorari may be favored where "a state court or a United States court of appeals has decided an important question of Federal law that has not been, but should be, settled by this Court, or has decided an important Federal question in a way that conflicts with relevant decisions of this Court." S. Ct. R. 10(c). Here, the Court has an opportunity to settle the issue of whether Federal courts, consistent with U.S. policy, have authority to hear equitable claims on their merits pursuant to the HEAR Act and its amendments. This case presents the question promptly after the HEAR Act's renewal. Its adjudication by this Court can help provide clarity for litigation under the Act going forward.

The Federal government has repeatedly affirmed that Holocaust restitution is a matter of Federal policy that implicates foreign relations. It passed the 2016 HEAR Act specifically to promote the adjudication of cases like Petitioners' on their merits, recognizing that existing legal doctrines often prevented Holocaust survivors and their heirs from obtaining merits adjudication of restitution claims in American courts. Nonetheless, cases were still dismissed on technical grounds. Congress thus

renewed and amended the HEAR Act to prohibit the application of such defenses. This Court now has the opportunity to ensure that the same procedural barriers do not continue to frustrate Congress's intent or U.S. foreign policy.

It is no coincidence that the U.S. has led on justice for Holocaust victims. The U.S. is home to more Holocaust survivors than any other country except Israel – and many live in poverty. *See* Claims Conference Center for the Study of Demography, *Holocaust Survivors Worldwide[:] A Demographic Overview*, CLAIMS CONF. ON JEWISH MATERIAL CLAIMS AGAINST GER., at 22 (Jan. 2024), <https://www.claimscon.org/forms/Demographics/Demographics-report-Global-WEB2.pdf>; U.S. Dep't of State, Bureau of Eur. and Eurasian Affs., Just. for Uncompensated Survivors Today (JUST) Act Report 5-6 (Mar. 2020); Omri Nahmia, *A Third of US Holocaust Survivors Live In Poverty, Jewish Orgs Try To Help*, THE JERUSALEM POST (Apr. 17, 2023 6:52 PM), <https://www.jpost.com/diaspora/article-739478>.

The U.S. has an interest in equitable resolution of survivors' claims. Moreover, survivors (or their heirs) who pool enough resources to pursue a restitution claim and seek to recover their property stolen during the Holocaust do so in reliance on the U.S.'s promise that its courts will exercise their judicial authority to hear and resolve such claims on their substantive merits. Congress has repeatedly encouraged, in the HEAR Act and its amendments, that our courts keep that promise. Guidance from this

Court can help ensure the implementation of the HEAR Act and its amendments reflect U.S. policy to ensure that “no one shall profit from an illegal act.” Cotler, *supra* p. 1, at 615-16.

This case also implicates the basic right to have a case heard on its merits before this Nation’s judiciary, and does so in relation to the victims of exceptionally serious crimes. The Seventh Circuit’s decision weakens the HEAR Act just as Congress seeks to strengthen it and impedes Holocaust art restitution domestically and internationally. The decision negatively impacts claimants’ ability to bring restitution claims in the U.S., which has historically been a leader in this cause not just for Americans, but for Holocaust survivors and heirs around the world. See Just. for Uncompensated Survivors Today (JUST) Act Report, *supra* p. 12, at 6.

This case does not live in a vacuum. It is particularly important today. Holocaust survivors living in the U.S. are aging and may not be able to wait for Congress to – again – re-affirm its intentions before their claims are heard on the merits. The rise of anti-Semitism makes it even more important to fight against longstanding prejudices against Jews, which predated but were systematically exacerbated by the Nazis. Moreover, ignorance about the Holocaust has accompanied rising anti-Semitism. In 2018, the Conference on Jewish Material Claims Against Germany commissioned a randomized study of 1,350 U.S. adults which found approximately 31% of Americans and 41% of Millennials believed far

fewer Jews were killed during the Holocaust than history actually records. *New Survey by Claims Conf. Finds Significant Lack of Holocaust Knowledge in the U.S.*, CONF. ON JEWISH MATERIAL CLAIMS AGAINST GER., <https://www.claimscon.org/study/> (last visited May 14, 2026). Only 40% of U.S. adults, and 22% of Millennials, were aware of the Auschwitz concentration camp. *See Claims Conf. Holocaust Poll*, SCHOEN CONSULTING (Mar. 2018), <https://www.claimscon.org/wp-content/uploads/2018/04/Holocaust-Knowledge-and-Awareness-Study-%E2%80%93-Topline-Results-1-1.pdf>.

The Federal questions in this case are of vital importance to the effectiveness of longstanding U.S. policy. For Holocaust survivors, now is the last chance for them personally to seek justice, at a time when rising anti-Semitism, Holocaust denial, and ignorance make protecting truth and justice about the Holocaust particularly important. While the U.S. has led international coalitions committed to the principle of Holocaust restitution, progress has been slow in U.S. courts and elsewhere. *See, e.g., See Just. for Uncompensated Survivors Today (JUST) Act Report, supra* p. 12, at 4-9. The HEAR Act amendments reaffirmed the U.S. policy of equitable judicial resolution. Now courts must implement that policy. As Justice Graber of the Ninth Circuit Court of Appeals once declared: “The world is watching.” *Cassirer v. Thyssen-Bornemisza Collection Found.*, 107 F.4th 882, 893 (9th Cir. 2023).

**III. Congress Intends for Claimants to
Litigate Restitution Claims
Through the HEAR Act.**

***a. The text and history of the Act
support resolving Petitioners’
claims on the merits.***

Legislative history and the plain language of the 2016 HEAR Act reveal Congress’ intent for parties to litigate restitution cases on their merits. Congress unanimously passed the 2016 HEAR Act in response to the extensive and primarily procedural challenges that compromise Holocaust survivors and heirs’ ability to seek restitution in American courts. *See, e.g.,* S.R. REP. NO. 114-394, at 8 (2016); *see also* HEAR Act § 2(6) (recognizing Holocaust survivors who seek restitution “face significant procedural obstacles” in U.S. courts). The Act’s purpose was “to open courts to claimants and have them resolved on the merits, consistent with the Terezin Declaration.” S.R. REP. NO. 114-394, at 9 (2016). To further clarify its intentions, in amending the Act, Congress eliminated many non-merits defenses, disapproved several court decisions narrowing the Act’s application, and revised the Act’s language to emphasize judicial remedies in cases like this one. *See generally* 2025 HEAR Act. Accordingly, Courts interpret the HEAR Act as “legislation that allows rightful owners . . . to recover artwork” wrongly seized during the Holocaust. *Cassirer*, 107 F.4th at 890.

Fundamentally, the HEAR Act provides litigants with the opportunity to seek restitution in

U.S. courts for artwork stolen by the Nazis during the Holocaust. It begins by acknowledging that lawsuits to recover Nazi-confiscated art “face significant procedural obstacles partly due to State statutes of limitations,” and that the process of building these restitution claims is “painstaking[],” “fragment[ed],” and “costly.” HEAR Act § 2(6). The Act provides that “the enactment of a Federal law is necessary to ensure that claims to Nazi-confiscated art are **adjudicated in accordance with United States policy . . .**” *Id.* § 2(7) (emphasis added). It explicitly states, “litigation may be used to resolve claims to recover Nazi-confiscated art,” though it also acknowledges “private resolution of claims by parties involved, on the merits and through the use of alternative dispute resolution such as mediation panels . . . will yield just and fair resolutions.” *Id.* § 2(8). *See also id.* § 3 (the Act was promulgated “to ensure that laws governing claims to Nazi-confiscated art... further United States policy” and are “resolved in a just and fair manner”).

The Act further preempts State and Federal statutes of limitation for civil claims that seek recovery of Nazi-era artwork, allowing plaintiffs to file suit within six (6) years of discovering a certain artwork and their possessory interest therein. The 2016 HEAR Act provides:

Notwithstanding any other provision of Federal or State law or any defense at law relating to the passage of time, and except as

otherwise provided in this section, a civil claim or cause of action against a defendant to recover any artwork or other property that was lost during the covered period because of Nazi persecution may be commenced not later than 6 years after the actual discovery by the claimant or the agent of the claimant of—

(1) the identity and location of the artwork or other property; and

(2) a possessory interest of the claimant in the artwork or other property.

HEAR Act § 5(a). Indeed, Congress created the Act with dual purposes in mind:

(1) To ensure that laws governing claims to Nazi-confiscated art and other property further United States policy as set forth in the Washington Conference Principles on Nazi-Confiscated Art, the

Holocaust Victims Redress
Act, and the Terezin
Declaration.

(2) To ensure that claims to artwork and other property stolen or misappropriated by the Nazis are not unfairly barred by statutes of limitations but are resolved in a just and fair manner.

Id. § 3.

When it recodified the HEAR Act in 2025, Congress reaffirmed its intention to “permit claims to recover Nazi-looted art [to] be brought, notwithstanding the passage of time since World War II.” 2025 HEAR Act § 2(a)(1)(B). Thereby, Congress extended the HEAR Act and limited the use of hyper-technical defenses – like those relied on below – in Holocaust restitution cases. For instance, in the 2025 HEAR Act, Congress:

- rejected courts’ use of non-merits defenses ranging from statutes of limitation to comity, laches, or the act of State doctrine to dismiss claims like Petitioners’, *id.* §§ 2(a)(1)(B), 2(a)(3)(D);
- rejected the application of foreign sovereign immunity in cases like this one, *id.* § 2(a)(1)(B); and

- eliminated the HEAR Act’s previous preference for non-litigation resolution of restitution claims, *id.* § 2(a)(1)(C).

Congress determined that the amended HEAR Act would apply to cases “pending on appeal” as of the amendments’ enactment. *Id.*, § 2(b).

The plain language of the HEAR Act reveals that Congress intended the Act to enable parties to litigate their art restitution claims in U.S. courts – not because the HEAR Act creates these claims, but because such claims already exist at common law and pursuant to the judiciary’s plenary equitable authority to effectuate Federal policy. Petitioners do not contend that the HEAR Act creates a new cause of action. Rather, the HEAR Act presupposes the existence of longstanding restitution and equitable claims and reflects Congress’s intent that Federal courts adjudicate those claims without procedural barriers defeating them before being heard on the merits.

b. Other Federal laws and policies support access to justice for Petitioners.

The HEAR Act’s support for access to justice is merely the culmination of decades of Federal policy. Since the Holocaust, the U.S. government has participated in domestic and international efforts to recover artworks lost or stolen by the Nazis. In support thereof, Congress enacted several laws and

policies to effectuate restitution for the victims of stolen artworks.

In 2009, the U.S. and 46 other nations executed the Terezin Declaration on Holocaust Era Assets and Related Issues of 2009 (“Terezin Declaration” or “Declaration”). The Declaration addresses the ongoing consequences that survivors and their heirs continue to suffer in the aftermath of the Holocaust, and contains an entire section devoted to Nazi-confiscated and looted art. With respect to the recovery of stolen artworks, the Declaration serves three functions.

First, the Declaration reaffirms support for the Washington Conference Principles on Nazi-Confiscated Art as endorsed at the Washington Conference of 1998 (“Washington Conference Principles”). The Washington Conference Principles “enumerate a set of voluntary commitments for governments that [are] based upon the moral principle that art and cultural property confiscated by the Nazis from Holocaust (Shoah) victims should be returned to them or their heirs . . . in order to achieve just and fair solutions[.]” Terezin Declaration § *Nazi-Confiscated and Looted Art*. The Declaration further “encourage[s] all parties including public and private institutions and individuals to apply” the Washington Conference Principles. *Id.*

Second, the Declaration supports art recovery research efforts – “systematic provenance research” –

which help victims locate and identify their lost art. *Id.*

Third, the Declaration “urge[s] all stakeholders to ensure that their legal systems or alternative processes . . . facilitate just and fair solutions with regard to Nazi-confiscated and looted art.” *Id.* And it ensures that art recovery claims are “resolved expeditiously and based on the facts and merits of the claims and all the relevant documents submitted by all parties.” *Id.*

The HEAR Act incorporated the Declaration and the Washington Principles in calling for equitable and merits-based adjudication of restitution claims. HEAR Act § 3.

The U.S. has long supported art recovery efforts in other ways, beginning even during the war. In 1943, as the Allied nations began to discover the true extent of the Holocaust, President Franklin D. Roosevelt established the American Commission for the Protection and Salvage of Artistic and Historical Monuments in War Areas (“The Roberts Commission”). Anne Rothfeld, *Nazi Looted Art[:]* *The Holocaust Recs. Pres. Project*, PROLOGUE MAG. (THE U.S. NAT’L ARCHIVES & RECS. ADMIN., WASH., D.C.), Summer 2002, <https://www.archives.gov/publications/prologue/2002/summer/nazi-looted-art-1> (last updated Nov. 10, 2022). The Roberts Commission supported and assisted the protection and recovery of art in post-World War II Europe. *Id.* The U.S. National Archives

and Records Administration also maintains extensive records relating to Holocaust-Era art provenance and claims research. See *Holocaust-Era Assets, Art Provenance and Claims Records and Research*, THE U.S. NAT'L ARCHIVES AND RECS. ADMIN., <https://www.archives.gov/research/holocaust/art> (last updated Jan. 19, 2022). And, in 1998, Congress passed the Holocaust Victims Redress Act, a predecessor to the Terezin Declaration, which supports efforts to return Nazi-era stolen artworks to their rightful owners. The Act provides:

It is the sense of the Congress that consistent with the 1907 Hague Convention, all governments should undertake good faith efforts to facilitate the return of private and public property, such as works of art, to the rightful owners in cases where assets were confiscated from the claimant during the period of Nazi rule . . .

Holocaust Victims Redress Act, Pub. L. No. 105-158, 112 Stat. 15–18 (1998), § 202.

In short, the U.S. has a long history of supporting recovery of Nazi-looted art through legislation, foreign policy, and domestic research efforts. This history reflects increasing support for justice for plaintiffs like Petitioners.

IV. Federal Courts Have Inherent Equitable Authority to Decide Nazi Art Restitution Claims.

Federal courts have inherent authority to decide restitution claims like Petitioners', and the contrary conclusion below warrants certiorari review. Holocaust restitution is a uniquely Federal interest. Indeed, Congress passed the HEAR Act to address the conflict that arises when State laws and State technical defenses prevent claimants like Petitioners from having their claims heard on the merits in court. Federal courts' equitable authority – whether arising from the judiciary's plenary equitable authority or from Federal common law – gives U.S. courts the unique ability to stand against prejudices and send a clear message of “never again” by facilitating the adjudication of claims concerning Nazi-looted art.

The Seventh Circuit rejected Petitioners' arguments as to their Equitable Claims, specifically their contentions that (1) courts have inherent equitable authority under the Constitution to fashion restitution and unjust enrichment remedies, unless Congress prescribes explicit or implied discreet statutory remedies, and (2) courts retain that equitable authority under the HEAR Act because the Act does not explicitly deprive them of such or create a discreet statutory remedy. *See Schoeps v. Sompo Holdings, Inc.*, 160 F.4th 815, 823 (7th Cir. 2025). The Seventh Circuit held that because the HEAR Act explicitly states “[n]othing in this Act shall be construed to create a civil claim or cause of action

under Federal or State law,” *see* HEAR Act § 5(f), it “would be inconsistent with the text and design of the statute to find an implied federal cause of action,” which consequently forecloses the possibility of an implied remedy, *Schoeps*, 160 F.4th at 823–24. The decision below paradoxically concluded that a statute meant to *expand* access to the courts had in fact *contracted* it by implicitly eliminating well-established judicial authority.

By construing a litigation-enabling statute as a jurisdiction-restricting statute because no cause of action was explicitly created, the decision departed from this Court’s precedent. A “liability created by a statute [which does not specify] a remedy may be enforced by a common-law action.” *Dooley v. United States*, 182 U.S. 222, 229 (1901). Courts have “equitable authority” to craft a remedy in situations like that of this case, unless a remedy is “otherwise provided by statute.” *Fed. Trade Comm’n v. Credit Bureau Ctr.*, 937 F.3d 764, 782 (7th Cir. 2019). This Court has held that interpreting a statute to provide a right with no concomitant remedy would be a “monstrous absurdity” (*Kendall v. United States ex rel. Stokes*, 37 U.S. 524, 624 (1838)), and that is precisely what the Seventh Circuit did here. Indeed, courts have equitable jurisdiction to “give effect to the policy of the legislature.” *Mitchell v. Robert DeMario Jewelry, Inc.*, 361 U.S. 288, 292 (1960). That is particularly evident here, where the policy of the legislature is to promote courts’ exercise of jurisdiction to right Nazi wrongs.

Similarly, Federal common law provides a basis for jurisdiction because Congress has explained that the limitations associated with State law causes of action frustrate Federal policy. The Seventh Circuit rejected Petitioners' argument that the District Court had subject matter jurisdiction over the Federal Common Law Claims because the HEAR Act implicates important U.S. foreign policy. *Schoeps*, 160 F.4th at 824. It held that while Petitioners "established that United States foreign policy supports, as a general proposition, restitution of Nazi-looted art between private parties," they failed to show "that state law causes of action necessarily conflict with that United States foreign policy in a way that requires the application of federal common law rather than state law." *Id.* at 825. Not so. The HEAR Act was passed in part because the technical limitations present in State law conflict with U.S. foreign policy, resulting in "significant procedural obstacles" for claimants. See HEAR Act § 2(6). Furthermore, for Federal common law to apply, the necessary conflict between State law and Federal policy "need not be as sharp as that which must exist for ordinary pre-emption when Congress legislates 'in a field which the States have traditionally occupied.'" *Boyle v. United Techs. Corp.*, 487 U.S. 500, 507 (1988) (citation omitted).

This is a paradigmatic case for Federal jurisdiction. Restitution of Nazi-looted art is a uniquely Federal interest in that it implicates foreign policy and decades of international cooperation. See *Von Saher v. Norton Simon Museum of Art at*

Pasadena, 592 F.3d 954, 965-968 (9th Cir. 2010) (the “history of federal action” on Holocaust restitution “is so comprehensive and pervasive as to leave no room for state legislation.”). In the U.S., Holocaust restitution efforts have historically been led by the Federal government – specifically, the State Department, the agency charged with implementing the Nation’s foreign policies – as they are considered matters of foreign policy and international relations. *See, e.g., About Us – Office of the Special Envoy for Holocaust Issues*, U.S. DEP’T OF STATE, <https://www.state.gov/about-us-office-of-the-special-envoy-for-holocaust-issues/> (last visited May 19, 2026) (State Department employs a Special Envoy to address “Holocaust issues,” including restitution); *See* Just. for Uncompensated Survivors Today (JUST) Act Report, *supra* p. 12, at 6 (State Department surveyed various countries’ restitution programs per Congress’s instruction); Press Release, Michael R. Pompeo, Sec’y of State, U.S. Dep’t of State, Release of the JUST Act Report (July 29, 2020) (on file with the U.S. Dep’t of State) (Holocaust restitution work is “a priority” for the State Department); H.R. REP. NO. 114-141 (2015) (the U.S. has “a long-standing policy interest” in access to justice for victims of Nazi crimes). The Seventh Circuit’s opinion disregards this comprehensive and pervasive Federal action on Holocaust restitution.

The Seventh Circuit erred in finding no qualifying conflict between State law and Federal policy. The judiciary’s deference to State law in HEAR Act cases has repeatedly resulted in those claims

being barred on jurisdictional grounds, which frustrates Congress' express legislative intent and reflects the significant conflict between State laws and the Act. *See* HEAR Act § 2(6).

Finally, the HEAR Act's statement that it does not "create a civil claim or cause of action" poses no impediment to Federal common law or courts' equitable jurisdiction. HEAR Act § 5(f). Rightly read, the HEAR Act does not create such a claim, but does recognize that claims exist at common law and pursuant to a Federal court's equitable power to effectuate Federal policy. The Act need not create those claims; and, neither its intent nor its language can be interpreted to destroy them. Instead, to fulfill Congress's intent, the judiciary must retain its plenary equitable authority to hear claims related to the HEAR Act.

CONCLUSION

Granting certiorari provides this Court with the opportunity to ensure Holocaust victims and their descendants have fair and just access to the U.S. court system. Doing so will support decades of U.S. policy and Congress' original and unchanging intentions in enacting the HEAR Act and other Nazi-era artwork restitution policies, and will promote application of the rule of law in a fair and just manner. For the above reasons, this Court should grant the petition for certiorari and reverse the judgment of the Seventh Circuit dismissing Petitioners' First Amended

Complaint pursuant to Federal Rule of Civil
Procedure 12(b)(1).

Respectfully submitted,

ARTHUR TRALDI
AMERICAN ASSOCIATION
OF JEWISH LAWYERS AND
JURISTS
888 17th Street NW,
Suite 400
Washington, DC 20006

HAL R. MORRIS,
Counsel of Record
MEGAN Q. WARSHAWSKY
SAUL EWING LLP
161 North Clark Street
Suite 4200
Chicago, Illinois 60601
(312) 876-7100
hal.morris@saul.com

AMERICAN
ASSOCIATION OF
JEWISH LAWYERS AND
JURISTS

May 29, 2026