

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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GIZELLA WEISSHAUS, : Civil Docket#  
 : 96-cv-4849  
 Plaintiff :  
 - versus - : U.S. Courthouse  
 : Brooklyn, New York  
 U.B.S, :  
 Defendants : November 20, 2000  
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TRANSCRIPT OF CIVIL CAUSE FOR HEARING  
BEFORE THE HONORABLE EDWARD R. KORMAN  
UNITED STATES CHIEF DISTRICT JUDGE

A P P E A R A N C E S:

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1 THE CLERK: In Re: Holocaust Victim  
2 Assets litigation.

3 The Honorable Edward R. Korman,  
4 presiding.

5 THE COURT: Ladies and gentlemen, it's a  
6 pleasure for me to welcome you here again on the  
7 next step in a long road.

8 We had a very valuable fairness hearing  
9 last year. There were many comments that were  
10 made that were very helpful and that I took into  
11 account before I approved the fairness of the  
12 settlement.

13 Today we meet to hear comment on the  
14 proposed plan of allocation by the Special  
15 Master, Judah Gribetz, and we'll begin first  
16 with some brief statements by some of the  
17 plaintiff's lawyers, and then we'll hear from  
18 the people who have asked to be heard that I  
19 have on my list.

20 The first of the lawyers is the  
21 plaintiff's lead counsel, Burt Newborne.

22 MR. NEWBORNE: Judge Korman, with your  
23 permission, we'll all face the audience and not  
24 the bench.

25 I too would like to welcome you all

1 here and to tell you how helpful the comments  
2 that were received in connection with the first  
3 famous hearing were to us in attempting to  
4 develop the fairest possible plan of allocation.

5 I simply want to remind us all of two  
6 things before we actually begin the process of  
7 considering the Special Master's proposed plan.

8 First, and for me and I think for all  
9 of the lawyers, the most important aspect of  
10 this the \$1.25 billion settlement fund is a  
11 significant amount of money, but everyone of us  
12 in this room knows that it isn't close to  
13 sufficient to do justice to the parties who  
14 suffered during the Holocaust. By definition,  
15 because it was done by human beings and because  
16 it was done in a legal system that is fair but  
17 not perfect, it is an effort to do the best we  
18 could to get the most money we could at a point  
19 where it could do the most good for those  
20 victims who are still alive. And that meant  
21 that because it wasn't large enough to do  
22 complete justice to everyone, that it was  
23 necessary for us to work out a mechanism to  
24 allocate and apportion that fund between and  
25 among a large number of people, all of whom,

1 every single one of whom, had strong moral  
2 claims to the money. Because there wasn't enough  
3 to go around, we had to figure out a way, a fair  
4 way, of allocating among those people who had  
5 claims and there were two ways we could have  
6 gone: The traditional, legal way would be say to  
7 everybody who had a chance to have a  
8 distribution from the fund to fight with  
9 everyone else.

10 In other words, we could have set up  
11 the classic, legal, adversarial proceeding at  
12 which the survivors were to fight with each  
13 other over their relative shares of the fund.  
14 We found that morally, psychologically, legally  
15 impossible. To do that would have caused  
16 survivors at the last moments of their lives to  
17 be squabbling with one another over an  
18 inadequate fund for a share of the proceeds.

19 Instead, with the Court's cooperation,  
20 we attempted a different approach. We attempted  
21 to set up a mechanism that was scrupulously  
22 fair, scrupulously open, scrupulously  
23 transparent, and that mechanism would be a  
24 special master who was completely neutral, who  
25 would hear from the community in a non-

1 adversarial way, in a way that would give  
2 dignity and recognition to every survivor and  
3 who would then attempt to work out a fair and  
4 rational allocation plan which he would then  
5 present to the community for their comment and  
6 eventually to the Court for its approval.

7           Judah Gribetz was the special master  
8 who was given that extraordinarily difficult  
9 task. It's a task that can't satisfy everyone  
10 because by definition there isn't enough money  
11 for everyone, but it was our hope that by  
12 providing an absolutely fair procedure in which  
13 everyone's interests could be considered and  
14 then dealt with by a special master who had  
15 absolutely no ties to any group, that he was  
16 completely neutral, that we would find a way to  
17 allocate this money in a way that would be  
18 accepted by the community as fair without  
19 causing pain and without causing unnecessary  
20 divisiveness in a community that should stand as  
21 a single unity and not as a divided group.

22           So I hope that in that spirit, the  
23 spirit of attempting to find a non-adversarial  
24 way of dealing with this very difficult  
25 allocation question. But we'll proceed this

1 morning to discuss the merits of the special  
2 master's allocation plan.

3           The second point, and this is a general  
4 point, that I hope that all of us can remember  
5 because it's important in terms of our  
6 understanding of exactly what the special master  
7 did. None of us, not the Judge, not the special  
8 master, not the lawyers, not the victims are  
9 free to do with this money exactly what we wish.  
10 This is not a humanitarian fund, the \$1.25  
11 billion, that we can allocate anyway we want.  
12 It isn't a charity that could be allocated in  
13 accordance with the principles of abstract  
14 justice. It's the settlement of a lawsuit.

15           And, therefore, in order to allocate  
16 the proceeds of the settlement of the lawsuit,  
17 the special master was obliged to consider one  
18 very, very important criteria and it's a  
19 criteria that doesn't necessarily correspond to  
20 abstract justice or to morality. The special  
21 master was a obliged to consider the relative  
22 legal strength of the claims of the five  
23 plaintiff classes, the relative strength of  
24 deposited assets class, the relative strength of  
25 the slave labor one class and the slave labor

1 two class, the relative strength of the looted  
2 assets class, and the relative strength of the  
3 refugee class.

4           The allocation that he suggests is not  
5 intended as a reflection of the relative  
6 suffering of those classes. It is not intended  
7 as a reflection of the relative - even the  
8 relative losses of those classes. What it is  
9 intended to do is to reflect the relative  
10 strength of the legal and factual under pains of  
11 each of those classes so that the allocation  
12 that we will make of those funds will be  
13 consistent with law. Because after all, this is  
14 the final step in a lawsuit, not a process of  
15 abstract justice.

16           And that leads me to the last thing I  
17 want to say because I think, undoubtedly, the  
18 most controversial aspect of the special  
19 master's plan was his decision that it was  
20 impossible to provide an individualized  
21 administration of the looted assets class, that  
22 the looted assets class is so large, contains so  
23 many people, that the Nazis looted so many  
24 people and so many people had damage, property  
25 damage and inflicted upon them by the Nazis that

1 for us even to take the entire fund, even if we  
2 were to leave out the deposited assets and  
3 refugee and slave labor class people, which we  
4 can't because we're by law obliged to try to  
5 provide fair distribution for them as well, but  
6 even if we were to leave them entirely out, the  
7 administrative costs of locating each looted --  
8 each victim of looting and to provide some money  
9 to each victim of looting, the administrative  
10 costs would have eaten up the fund and we would  
11 have wasted it on process instead of on people.

12           And secondly, the amounts that would  
13 have gone to each person would have been so  
14 small that they would have been non. And so the  
15 special master recommends, and I hardly concur,  
16 that the only fair way to administer the looted  
17 assets class is to do so in a cypres. It's a  
18 mechanism of the law that says: If you can't do  
19 the perfect job, which would be to give each  
20 person their money back, you do the next best  
21 thing. And so the next best thing, in the  
22 opinion of the special master, is to try to  
23 identify those victims of looting who have  
24 suffered deeply, who have never been  
25 compensated, and who are currently in greatest



1 need, and that's what he's done in connection  
2 with his report.

3 My final observation narrows it down,  
4 is that the numbers in the report are by  
5 necessity tentative. He made the decision that  
6 the deposited assets class, who's clearly the  
7 strongest legal claim and the strongest factual  
8 claim, as a matter of law, not as a matter of  
9 morality, not as a matter of abstract justice,  
10 just as a matter of law. And, therefore, he  
11 allocated \$800 million to it.

12 It's clear that such a large proportion  
13 of the records that would be needed to  
14 administer in that class no longer exists. This  
15 is not the time to question why it doesn't  
16 exist. That's now water under bridge. But the  
17 records don't exist, and it may be very  
18 difficult to administer that class in a way that  
19 would provide the entire distribution of the  
20 \$800 million. And, therefore, there may come a  
21 time after we have done everything that we can  
22 to administer that class in a fair and just way,  
23 there may come a time at which a portion of that  
24 \$800 million will have to be reallocated and  
25 will be reallocated pursuant to exactly the same

1 type of open and transparent process that has  
2 governed the allocation of the initial funds.  
3 So that it is possible for the looted assets  
4 class to receive additional funds. It is  
5 possible that the save labor class and the  
6 refugee classes will receive additional funds,  
7 but that is down the road.

8           The special master recommends and I  
9 concur that our principal obligation with  
10 respect to the deposited assets class is to do  
11 everything we can to see that every person who  
12 put money in Swiss bank gets their money back  
13 and gets back 100 cents on the dollar, and we  
14 will do all we can to see that that happens.

15           If we can't do that, we will then  
16 recommend at some future time that the  
17 undistributed portions of the \$800 million be  
18 reallocated, but for today I urge us to  
19 concentrate on the special master's report. His  
20 recommendation that the principal \$800 million  
21 allocation be to the deposited assets, that the  
22 slave laborers receive up to \$1,000 each, that  
23 the refugees receive between \$500 and \$2500  
24 each, and that the looted assets class be  
25 administered on a cypres basis.

1 Thank you.

2 VOICE: The money is here already.

3 MR. NEWBORNE: That concludes my  
4 remarks.

5 VOICE: (unintelligible) Our people,  
6 they suffered.

7 THE COURT: Please, if you want to --

8 VOICE: That's enough.

9 THE COURT: If you want to remain here  
10 you have to be quiet. Everybody who wants to  
11 speak will have an opportunity to speak.

12 All right. Mr. Swift.

13 MR. SWIFT: Your Honor, Robert Swift,  
14 one of the plaintiff's counsel. I don't have  
15 any remarks to make at this time, but after  
16 hearing all the comments, I would like to  
17 reserve an opportunity to say something at the  
18 end.

19 THE COURT: Okay. Mr. Winston.

20 MR. WINSTON: Thank you, your Honor. I  
21 apologize for turning my back on the audience.  
22 I will try to kind of stand -

23 THE COURT: You could face them.

24 MR. WINSTON: -- caddy-corner here like  
25 this.

1 THE COURT: You don't have to; you could  
2 face them.

3 MR. WINSTON: I think an appropriate  
4 observation is I'm reminded of a quote from  
5 Winston Churchill that happened to be used in  
6 the New York Times this morning in commenting on  
7 the electoral process, and this was a remark  
8 that Churchill made, I believe, on the allied  
9 invasion of North Africa during World War II  
10 where he said, "This is not the end, this is not  
11 even the beginning of the end, but at least it's  
12 the end of the beginning." And I hope we're  
13 farther along in this process than that, but  
14 this has taken a while and it's a blessing of  
15 our judicial system that we provide due process.  
16 But, unfortunately, sometimes that takes a long  
17 time.

18 We have submitted on behalf of the  
19 World Council of Orthodox Jewish Communities a  
20 detailed objection to the proposed plan of  
21 distribution authored by Mr. Gribetz. We  
22 acknowledge the tremendous effort and  
23 consideration and research and thought that went  
24 into Mr. Gribetz' plan, but we believe it has  
25 certain flaws to it.

1           Primary among them is the over  
2 evaluation of the deposited asset claim. We  
3 have analyzed Mr. Gribetz' statistics that he  
4 has provided and were developed through ISEP,  
5 and we believe at most there will be about  
6 16,000 accounts that we'll find in err. We  
7 think using the statistics that Mr. Gribetz has  
8 for the value of an average account, this will  
9 provide at most somewhere under  
10 \$400 million in amounts to be distributed for  
11 deposited assets.

12           Mr. Gribetz' statistics do not take  
13 into account the huge death toll of the  
14 Holocaust. Many of these accounts that will be  
15 located we believe will not have a claimant and  
16 will not have an heir. The problem in valuing  
17 all of these accounts at full value and  
18 assigning them to the deposited assets claims is  
19 that these monies will not be distributed now.  
20 And the worst fear that I have is that we're  
21 going to be back in this courtroom two years  
22 from now with a huge amount of undistributed  
23 funds from the deposited asset claims and vastly  
24 smaller number of Holocaust survivors to  
25 distribute those funds to.



1           We all recognize that we have an aging  
2 class here, and I would suggest that the Court  
3 needs to rationalize the distribution into the  
4 deposited asset claims, limit that fund to the  
5 accounts that are likely to have an heir or a  
6 claimant, and to redistribute or reallocate the  
7 excess amount, which we believe is up to  
8 \$400 million into the looted asset category.  
9 Doing that then provides a looted asset fund  
10 which will allow individual distributions in  
11 support of those claims.

12           And I note that the observation of the  
13 9th Circuit in the case of Mace v. VanRue  
14 (phonetic), there is no reason when the injured  
15 parties can be identified to deny them even a  
16 small recovery in favor of disbursements through  
17 some other means.

18           One other comment that I would like to  
19 make on the deposited asset claim and that  
20 relates to its administration. So far, the  
21 current administrative process for the deposited  
22 asset claims was organized under the principle  
23 of a self-sufficient, independent foundation.  
24 Certain mechanisms and bureaucracies were set up  
25 by that foundation to enable it to operate.

1           In the context of a class action  
2 distribution, we believe there are many  
3 unnecessary, bureaucratic aspects to the current  
4 distribution system that the Court needs to take  
5 a very careful look at, the provision for  
6 internal appeals, the existence of a board of  
7 directors, the two different levels of judges.  
8 While those may have been appropriate when the  
9 ICRF - if I have the initials correct - was a  
10 self-sustaining and independent organization,  
11 those same things are not necessary now as when  
12 it will be an arm of the Court. The Court needs  
13 to pay careful attention to the administrative  
14 aspects of the deposited asset claims and  
15 appoint someone who will be the "eyes and ears"  
16 of the Court and particularly the "purse  
17 strings" of the Court to make sure that excess  
18 funds are not utilized in the administration of  
19 these claims.

20           In the looted asset category with the  
21 increased amounts that we believe are available,  
22 we would suggest that the Court follow the Agent  
23 Orange model which we have outlined in our  
24 report.

25           The most important thing I believe



1 about using a cypres aspect, which we support,  
2 is that the same principle that we're talking  
3 about with the deposited assets, that these  
4 funds need to be distributed while the class  
5 members are alive.

6           With all due respect to Special Master  
7 Gribetz, his proposal for disbursing \$90 million  
8 in cypres assets over a ten-year period does not  
9 make sense to us. There are programs that are  
10 available, whether in Russia, in the former  
11 Soviet Union, in Eastern Europe or here in the  
12 United States or other places where class  
13 members live, where these funds can be expended  
14 and utilized to the benefit of class members who  
15 need that level of assistance now.

16           So we would suggest the Court that a  
17 much shorter time period be utilized for the  
18 distribution - for any cypres distribution, and  
19 that if the programs identified by the special  
20 master cannot do that within that shorter time  
21 period, that other programs be utilized as well.

22           We have set forth in our written  
23 objections several other specific points that I  
24 need not go into right now except for one  
25 additional point that I would make as to the

1 refugee class. And that is the exclusion of  
2 heirs from the refugee class, the apparent  
3 exclusion of heirs from the refugee class. Now,  
4 I'm talking here about people who tried to get  
5 into Switzerland but were turned away at the  
6 border and turned over to the Nazis.

7 I have one individual that I have been  
8 talking to who fits into that category. He was  
9 a child and got into Switzerland on kinder  
10 transport. His parents tried to get into  
11 Switzerland and they were turned away at the  
12 border and turned back over to the Nazis and  
13 eventually killed in a concentration camp.  
14 Under the proposed distribution plan, he would  
15 not be able to claim on behalf of his parents  
16 because it does not specifically provide for  
17 heirs to recover under the refugee class. We  
18 believe that is an oversight that needs to be  
19 addressed and included.

20 I know that there are a lot of people  
21 that want to talk, so I will not go on any  
22 further. I do ask the Court, and I know the  
23 Court will take full consideration of our  
24 written objections.

25 Thank you, very much, your Honor.

1 THE COURT: Mr. Winston? Mr. Winston?

2 MR. WINSTON: Yes, sir. I'm sorry,  
3 Mr. Urbach.

4 MR. URBACH: Good morning, your Honor.  
5 And like my colleague Mr. Swift, I would like to  
6 reserve some time to make some comments at the  
7 conclusion of today's hearing. I'd like to  
8 reserve my time for the end of the hearing.

9 THE COURT: Oh, okay.

10 MR. URBACH: Thank you, your Honor.

11 THE COURT: Mr. Fischer?

12 MR. FISCHER: Thank you, your Honor.

13 I am Barry Fischer. I am one of the  
14 settlement class counsel of Fleischman, Fischer,  
15 Los Angeles, and while serving as generally a  
16 plaintiff's counsel I've tried to particularly  
17 work with Romani and Jehovah's Witnesses and  
18 other non-Jewish settlement categories. I've  
19 worked with the Romanis since the early 1980's,  
20 particularly the one UNNGO Romani Group, the  
21 International Romani Union made up of  
22 representative organizations from over 40  
23 countries, and I've worked with as liaison with  
24 Jehovah's Witnesses for many years, and I've  
25 worked with disability rights groups.

1           The Court has received distribution  
2 plan comment submissions regarding the groups  
3 I've worked with as follows:

4           Romani focus submissions from me; two  
5 from - and materials from the International  
6 Romani Union President, Dr. Emile Schtuka; a  
7 Czech lawyer, previously the IRU secretary  
8 general who met with the delegation of Roma --  
9 European leaders with the special master early  
10 on in this process. And there's been a pleading  
11 submission by attorney Ramsey Clark, which I  
12 only received a few days ago which I haven't had  
13 an opportunity to submit written comments about,  
14 but I would like the opportunity to obtain  
15 comments from Romani groups and submit comments.  
16 No other Romani submissions that I'm aware of  
17 have been filed, and if there have been any, I  
18 would like to have an opportunity to review  
19 them.

20           At the fairness hearing, I introduced a  
21 delegation from Romani people from Poland who  
22 attended the hearing, came from Poland and as  
23 led by Roman Wykowski (phonetic) at that time.  
24 He is apparently ill. He has sent a delegation  
25 here today, and their leader Adam Schmyt would

1 like to speak later if a Polish interpreter can  
2 be found.

3           The Court has received a letter from  
4 the Jehovah's Witnesses requesting, as I have,  
5 regarding the Romani people that there be  
6 provided for in the plan a more formal  
7 relationship with the IOM in processing claims,  
8 particularly the Romani which will involve  
9 difficult issues of linguistics, history and  
10 facts which I think should rely much part on an  
11 advisory committee of Romani leaders to assist  
12 the IOM in a more formal way.

13           My distribution plan comments submitted  
14 to the Court focused on the looted assets  
15 allocation, and as I elaborate in much more  
16 detail in writing, the Roma and the Jews were  
17 the only two groups targeted by the Nazis for  
18 total annihilation.

19           The proposed plan provides for a fixed  
20 allocation for Jews and with the residue  
21 remaining Jewish, but the Romani people are  
22 lumped in in differentially with all other non-  
23 Jewish targeted categories with no residue going  
24 to Romani interests, and so I've recommended  
25 that there be a fixed amount as with the Jews.

1 And that I've also recommended that based on  
2 conservative figures about the numbers killed in  
3 the Jewish and the Romani communities that the  
4 figure appropriately should be 10 percent of the  
5 looted assets component, which is only 10  
6 million of \$1.25 billion if that should be  
7 approved, with the unused portion going to  
8 Romani education remembrance and institutions  
9 working with respected Romani organizations.

10 My colleague Ramsey Clark has provided  
11 me with a copy of this submission a few days  
12 ago. There is a question about several of the  
13 groups listed as being the sponsors of the  
14 submission. I think some of them have contacted  
15 the Court by the end of the week. For example,  
16 the International Romani Union knew nothing of  
17 this and is not part of it, although listed.  
18 The Austrian-Romani group, Romano-Centro has  
19 also so communicated, I understand, with the  
20 Court as have some seven World Romani leaders  
21 who are listed as part of it who knew nothing  
22 about it.

23 I want to make a couple of comments  
24 about the - from my quick read of it - first of  
25 all, it's based in large part on certain

1 statistics which are referred to as claims  
2 statistics regarding the settlement fund. Of  
3 course, there haven't been any claims filed yet.  
4 The statistics are based on that somewhat ill-  
5 conceived and problematic questionnaire that had  
6 been sent out which many Romani refused to send  
7 in, and there was a great amount of confusion  
8 about it. So I don't think that those are  
9 reliable statistics. I think the amount of  
10 claims will be significantly larger than the  
11 questionnaire statistics.

12 Both he and I recommend that unused  
13 Romani allocations go somehow to Romani  
14 Holocaust remembrance education and  
15 institutional infrastructure. He refers to a  
16 particular group that he thinks should get it, a  
17 "Worldwide Romani Future Fund" it's called, but  
18 it's something that we've never heard of, and I  
19 hope that some day that there will be such an  
20 institution, but there isn't any at this point.

21 Also, Mr. Clark seems to take the  
22 position that all Romani-related allocations  
23 should go only to such a group, an institution,  
24 and that no survivors or heirs should receive  
25 anything. And this not a proposal that I can

1 support in any way.

2           Very little research has been done on  
3 Romani losses. There's some research, but my  
4 friend and colleague Cybil Melton, who died  
5 recently, told me many times about coming upon  
6 archival materials in the Whoocz (phonetic)  
7 ghetto and elsewhere about Romani losses and  
8 looting and things turned in that nobody has  
9 really every worked with. And so I think any  
10 numbers that are used regarding Romani really  
11 should be given the benefit of the doubt up and  
12 not down indifference to these people that  
13 generally have been left out.

14           Finally, regarding the looted assets, I  
15 want to join the comments of Mr. Clark and  
16 others concerned that while it's true that the  
17 deposited asset claims are more easily  
18 understood or they're more black and white in  
19 the realm, but that giving two-thirds of the  
20 entire fund, \$800 million of a billion,  
21 \$250 million, to this allocation giving every  
22 bit of interest, taking into account inflation  
23 and fees, but no such factors regarding slave  
24 labor or looted assets doesn't really seem to be  
25 fair.



1           And even though there's a reference in  
2 the plan that maybe as much as \$450 million of  
3 the \$800 billion may revert some day to other  
4 categories, people are dying. I don't know when  
5 that will happen, and it's better to make a  
6 clearer definition now than to leave so much  
7 money hanging for a time when somebody will die.

8           Again, I have not had a chance to  
9 consult with Romani organizations about  
10 Mr. Clark's submission, and would appreciate the  
11 opportunity to do so and to submit some comments  
12 later, if that's appropriate.

13           Thank you.

14           THE COURT: All right. This is somewhat  
15 out of order, but since the last comments were  
16 directed to you, Mr. Clark, do you want to  
17 speak?

18           MR. CLARK: Your Honor, I can speak now  
19 or we reserve time later on.

20           THE COURT: Whichever. I just thought  
21 that since you might want -- Mr. Fischer's  
22 comments were directly directed to you.

23           MR. CLARK: I can - I'll be happy to.

24           Judge Korman, Mr. Gribetz, Special  
25 Master, Burt Newborne, and most of all survivors

1 of the Holocaust and their loved ones, I rise to  
2 speak on behalf of Ian Hancock, John Nikles and  
3 William Dunno (phonetic) who heroically a month  
4 or so ago tried to do what the Romani people  
5 have been unable to do for 1200 years, and that  
6 is organize themselves to stand together in a  
7 single presentation on this matter.

8           Mr. Hancock went to Europe and  
9 developed a list -- I was in Africa during that  
10 period -- that we have submitted and it's a list  
11 in progress. There have been many names added  
12 and there will be some names, perhaps, deleted,  
13 but that's something that will be resolved  
14 later.

15           The main thing the Romani that I've  
16 talked with wanted me to stress is something  
17 that Burt Newborne started with and that's how  
18 essentially it is for human dignity itself if  
19 there be absolute unity among all those who  
20 share the pain of those lost in the Holocaust.  
21 To permit conflict between the survivors of  
22 Romani and Jewish children who died in the gypsy  
23 hospital at Auschwitz and the experiments of  
24 Josef Mengele would be shameful.

25           But having said that, it's my opinion

1 that unity will be impossible if the Romani are  
2 not heard on their, as far as I know, uniform  
3 belief that the proposed settlement is not  
4 equitable to them. They want desperately equity  
5 for all; they want nothing more than their  
6 share. But to permit a sense of injustice among  
7 the people who have been persecuted so long to  
8 have them once again, as they have been so  
9 often, ignored or slighted would be the loss of  
10 an important opportunity to strike a major blow  
11 for justice in the future.

12           As we see the special master's proposed  
13 plan, the probability of Romani survivors  
14 receiving more than one percent is very, very  
15 low. Thus, based on assumptions necessarily,  
16 the principal assumption is that -- and every  
17 lawyer that I've talked to, including several on  
18 the lawyers committee here agrees -- there will  
19 probably be no Romani claimants recognized to  
20 deposit assets. If any, there will be very,  
21 very few. That incredibly, automatically  
22 excludes people who believe they lost more than  
23 a million to the Nazi Holocaust and probably a  
24 million-and-a-half. A million-and-half you can  
25 see, if accurate, compared to six million for

1 Jewish victims, would be 20 percent of the total  
2 of the two. We don't understand why the bank  
3 accounts have such a legal claim.

4           This is a settlement. One group in a  
5 settlement gets 100 percent, while others gets  
6 alms. There's some reason to recognize the  
7 vagueness of deposit accounts where you ignore  
8 the hundreds of millions of dollars of gold and  
9 other valuables looted from every person who  
10 died in the Holocaust. For some it might have  
11 been have been a pair of pants and shoes and  
12 that was all, but for others and particularly  
13 for Romani it was gold bracelets; that's their  
14 bank. That's the only way they ever had of  
15 saving. It was their dowry and their estates  
16 and their total worth in material terms.

17           We don't believe that the funds set  
18 aside for bank deposits are adequate. We think  
19 the 100 million for looted assets are terribly  
20 inadequate. We think the arbitrary limitation  
21 for Romani and all others of 10 percent of those  
22 reduces what the Romani can get to practically  
23 nothing.

24           Our calculation on the present refugee  
25 claims for Romani is that they'll come to less

1 than half million dollars. And for slave labor,  
2 we don't know what they'll be, but they won't be  
3 significant, and it may be that Mr. Barry  
4 Fischer is right, there will be a lot more  
5 Romani claims. But let me tell you, the Romani  
6 are hard to find. They've always been hard to  
7 find. They've been fugitives. They're still  
8 homeless, nationless people, and there are 10 or  
9 12 million of them. We forget how enormous  
10 their population is, how scattered and  
11 disorganized it is. But, the Romani need and  
12 this is the best opportunity they may ever have.  
13 There's an opportunity here to organize, to find  
14 themselves, to speak for themselves, to seek to  
15 establish what they really lost in the  
16 Holocaust.

17           There's been major efforts for more  
18 than 50 years to identify exactly what happened  
19 in the Holocaust, but very, very little of that  
20 effort has been directed toward what happened to  
21 the Romani. They've been the invisible people,  
22 but they were there. We believe there were more  
23 than three million in Europe before the  
24 Holocaust, and we believe as the Encyclopedia  
25 Britannica, of all places, said that more than

1 half of them perished in the Holocaust..

2           What we want is time to find, to  
3 identify, to organize and some resources for it,  
4 which they've never had. Ian Hancock had to pay  
5 his way to Europe to try to meet with people.  
6 John Nikles' phone bill will be astronomical  
7 when it comes in trying to call people. He's  
8 been calling people as late as this morning.

9           We don't want to delay anyone. A delay  
10 would be divisive and unpardonable. And the way  
11 we see solving that problem is a percentage of  
12 the gross award for consideration for Romani  
13 claims and set it aside. We've recommended  
14 20 percent.

15           Any amount by which Romani claims  
16 ultimately fail to reach 20 percent would be to  
17 return, and it could be distributed almost  
18 automatically in precise accordance with the  
19 plan for the distribution of the vast majority  
20 of the rest of the funds. But it would give the  
21 Romani the only chance they're going to have to  
22 find each other and to organize after all of  
23 these centuries and perhaps lift themselves up  
24 from what they are, the most endangered of the  
25 human species and the most deprived. I say that

1 as a person who spent a major part of his adult  
2 life trying to find and help the most deprived  
3 on this planet, and I think sadly that I've  
4 found them now in the Romani. They're poverty  
5 everywhere. They're fugitive status in most  
6 places. They're persecution in Czechoslovakia  
7 and other places right now.

8           Munich itself has enacted an ordinance  
9 last year that is almost precisely verbatim an  
10 ordinance enacted in 1934 excluding Romani from  
11 the city limits. There has to be an end. This  
12 is the chance. Set aside part of the fund for  
13 the Romani. Distribute the rest as fast as you  
14 can. Let a group of Romani representing the  
15 Romani people start trying to find everybody.  
16 Let them decide among themselves democratically  
17 how their funds are distributed. It's  
18 inaccurate to say that we said no funds would go  
19 directly to suffering Romani. We disagree with  
20 that entirely.

21           But, we do believe that the Romani  
22 situation is different. They have not been able  
23 for 50 years to organize and present their  
24 claims and find their victims and try to save  
25 them from further suffering, and they're

1 concerned about future Holocaust, future  
2 genocide for them in continuing persecution.

3 We hope that there will be an  
4 opportunity with this fund to finally give the  
5 Romani a chance to come together themselves and  
6 to have a better future.

7 Thank you.

8 THE COURT: Mr. Deluty?

9 MR. DELUTY: Your Honorable Judge  
10 Korman, Special Master Judah Gribetz, Holocaust  
11 survivors, members of the Swiss class action  
12 settlement, staff representing counsel and  
13 guests.

14 With the Court's permission and with  
15 your kind indulgence, I would like you all to  
16 rise for a minute of silence in memory of the  
17 6 million Jewish victims who perished in the  
18 Holocaust.

19 (Moment of silence)

20 THE COURT: All right. Let's continue.

21 MR. DELUTY: Kindly be seated.

22 I feel privileged to have the  
23 opportunity to give a short presentation at this  
24 hearing regarding the allocation and  
25 distribution of the Swiss Bank settlement. I



1 strongly believe in Heller's (sic) famous  
2 quotation, "If I don't do it for myself, who  
3 will do it for me? If I cared only for myself,  
4 what am I? And if not now, when?"

5           My name is Maurice Deluty. I am one of  
6 the few left survivors of an early liquidated  
7 ghetto transport of Jewish families that arrived  
8 in late 1942 at a place called "Hell on Earth of  
9 the 20th Century," which functioned as the most  
10 efficient death factory killing more than a  
11 million innocent Jewish men, women and children  
12 and others operated by the infamous Nazi  
13 killers. Yes, pathetically this was a product of  
14 the 20th century advanced society in the  
15 sciences, art, music, literature, et cetera.  
16 Auschwitz, Birkenau, the place where they killed  
17 my family, took away my identity and tattooed me  
18 with the number 77288.

19           Later, I was transferred to Audra-  
20 Buchenwald (phonetic), a nightmarish,  
21 dehumanized place. In 1945 I escaped from a  
22 moving open freight train rampant with  
23 dysentery. Mind you, the area where the train  
24 was passing was guarded with Nazi militia. With  
25 luck after jumping I hid in a forest by using

1 intuition, discretion and perhaps divine  
2 guidance. I was safe and later liberated.

3           Hypothetically speaking, if someone  
4 would have said to me at that time in 1942 in  
5 Auschwitz in the darkest period where the  
6 crematoriums were working overtime, as a Jew  
7 under those circumstances, that I stood a chance  
8 to survive I would have considered it insane,  
9 meshugena (phonetic) to say the least.

10           Now, let me change gears and deal with  
11 the complex subject matter with regard to the  
12 report of allocation and distribution of the  
13 fund to concentration camp slave labor  
14 survivors.

15           There are a number of questions to be  
16 asked and, perhaps, recommended for  
17 modification. To name some of them, first, the  
18 subject must be recognized as a historical,  
19 world moral precedent. For those who are  
20 involved serving this noble sacred cause on any  
21 level should feel honored and privileged,  
22 perhaps free from experiencing to be  
23 compensated. Services rendered, definitely no.

24           The many organizations who are jumping  
25 on the bandwagon with only one objective under

1 the "banner of charity" to receive supporting  
2 funds. In reality, we know from facts that most  
3 of the proceeds are absorbed by administrative  
4 expenses shortchanging the real needy and  
5 deserving survivors. Case in point, I received  
6 a very attractive and costly financial annual  
7 report from the conference of the Jewish  
8 Holocaust Memorial claims on distribution of  
9 millions, hundreds of millions of dollars to  
10 many organizations showing the many  
11 accomplishments of distributed funds to various  
12 Holocaust organizations.

13 To my great surprise, after reading the  
14 detailed distribution, I have yet to find the  
15 figures for the administrative expenses. I mean  
16 operational expenses, yes; salaries, I would  
17 consider it, no. Morally and realistically these  
18 funds belong to survivors only.

19 VOICE: That's right.

20 MR. DELUTY: And for the cause of  
21 perpetuating the memory of the Holocaust.  
22 Namely, some funds should be guarded for  
23 students, children and grandchildren who are of  
24 survivors who are willing to study and  
25 perpetuate the memory and who are in need of

1 scholarships.

2           Paraphrasing the saying, "Ask not what  
3 working for this cause will do for you, but what  
4 you can do working for this cause." My heart  
5 felt very pained, my eyes swelled with tears  
6 when I first heard the expression used, "There  
7 is no business like our business."

8           In regard to the major outline of the  
9 special master's report of allocation and  
10 distribution of the settlement, it is suggested  
11 in the report that it will be carried out in  
12 categories. First, the two kinds of depositors  
13 from the bulk of the fund to be served by  
14 tribunal determining the proper eligibility  
15 without knowing what will remain from that major  
16 part.

17           The next step comes the category of  
18 Swiss of refugees, and at the end comes the  
19 concentration camp and slave labor survivors and  
20 their looted assets. Here, it becomes strange.

21           According to the plan's report, the  
22 factors of time and cost needed to establish the  
23 eligibility, the plan recommends to distribute  
24 across the board \$1,000 in two stages to all  
25 concentration camp victim survivors and for the

1 looted assets, the funds to be given to be  
2 distributed in charity form to certain  
3 organizations. In my opinion, this is wrong.

4 First the sum of \$1,000 is comparable  
5 to what a lawyer charges for his services for  
6 several hours.

7 Second, entrusting funds to  
8 organizations will most likely end up in  
9 administrative expenditures.

10 Your Honor, therefore, I recommend the  
11 following:

12 Since time factor is of great  
13 importance, is to begin the allocation and the  
14 distribution immediately. Then, I strongly  
15 recommend at this juncture to appoint an  
16 independent, qualified, perhaps, voluntary  
17 commission of individuals who will serve with  
18 the objective for this noble cause free from  
19 monetary compensation, devoted to this cause,  
20 except for operational expenses: (a) to expedite  
21 the distribution of the initial part; (b) to  
22 evaluate the balance and finalize the  
23 distribution in an expeditious, timely period.

24 Furthermore, I would like to stress one  
25 more aspect.

1           I believe in order to make the proper  
2 distribution is to focus on the most needy  
3 survivors. Perhaps, it would be fitting to ask  
4 those individuals who are in great need, would  
5 they voluntarily submit their income tax return  
6 providing it will not infringe on their privacy,  
7 and at the same time not jeopardize other  
8 survivors.

9           I strongly object to a clause taken as  
10 a guiding principle from the German Slave Labor  
11 agreement for across-the-board distribution to  
12 be applied the same way in the Swiss Bank  
13 settlement for the Jewish Holocaust  
14 concentration camp survivors from all over.

15           I believe an expeditious  
16 court-appointed, qualified, voluntary,  
17 independent commission could with certainty  
18 serve and arrive to an equitable and just  
19 solution in the outstanding finalization of the  
20 fund distribution and allocation for the  
21 concentration camp survivors.

22           Make no mistake, the future generations  
23 will hold us responsible for dealings with this  
24 historic tragedy. They will not forget the  
25 magnitude of the tragedy and the loss of the 6

1 million innocent, Jewish victims and others. In  
2 that light, to act with a moral and conscious  
3 mission.

4 Thank you.

5 THE COURT: Mrs. Weisshaus?

6 MS. WEISSHAUS: Judge Korman, the  
7 representatives here, I'm really not a speaker,  
8 but I'm going to speak from my heart what's  
9 going on in this settlement and in with this  
10 case.

11 VOICE: Speak louder.

12 MS. WEISSHAUS: Louder, all right, I can  
13 do it. I'm just not even over - I had a broken  
14 arm. I'm still under therapy, and not long ago I  
15 lost a son and my husband didn't feel well  
16 because what's going on what they doing to me in  
17 American court and supposedly now a democrat  
18 country.

19 I'm going to ask some of Mr. Burt  
20 Newborne's speech.

21 First of all, I submit the papers, many  
22 documents to this case. I was the first one who  
23 work for this case. I worked for  
24 Mr. Fagan eight months. I know what happened  
25 there. I know who talk evidence against the

1 bank, everything. Everything was destroyed,  
2 nothing was presented. When I find out this and  
3 I sued Mr. Fagan on the grievance committee, I'm  
4 sure Mr. Newborne knows because he has some  
5 connection there, how he bailed out Mr. Fagan  
6 when he should be disbarred. That happened in  
7 May of '98.

8           So because he - Mr. Fagan received a  
9 half million dollars from with a guarantee - I  
10 don't know it's a mortgage or a loan, but I  
11 guarantee that this is going to be paid back  
12 from the Swiss money that he's going to receive,  
13 and that's why he pay it out. I had an escrow  
14 account by him that he used. It's against the  
15 law and everything.

16           I'm into litigation in this Brooklyn  
17 court, state court for 11 years.

18           THE COURT: Mrs. Weisshaus, the purpose  
19 of this is to comment on the plan.

20           MS. WEISSHAUS: Yes. No, I'm going to  
21 bring it out.

22           THE COURT: I know, but you only have a  
23 short period of time.

24           MS. WEISSHAUS: Yes, yes, I'll say.

25           So now, about this distribution, I'm



1 going to go to the distribution of the money  
2 because they don't want to hear anything what's  
3 happening.

4           Mr. Judah Gribetz is not an impartial  
5 person. First of all, he's getting paid for this  
6 thing and this is wrong.

7           And then also, he was instrumental when  
8 Judge Korman was appointed for US Judge. He  
9 worked for Senator Moynihan. Moynihan was in  
10 charge of appointing the judges. That's one  
11 thing.

12           Besides this, there is a lot of  
13 conflict of interest in this case. I'm  
14 submitting documents. Last year I submitted a  
15 250-page document. I sent one to  
16 Judah Gribetz; I sent one to the lawyers for -  
17 Mr. Witten (phonetic). And all the evidence,  
18 they never took the positions. They never  
19 presented the documents. I'm asking, why I'm not  
20 entitled for a bank account that was held by  
21 J.P. Morgan and they should give the archives  
22 and disclose where that money came from  
23 Switzerland. Everything had been denied,  
24 destroyed by this court. Judge Korman is denying  
25 me without an explanation. The other side I sue

1 now.

2           There is a lawyer from Chicago by the  
3 name of Mark Danefsky (phonetic) who sued them  
4 all counselor for (unintelligible). There, Judge  
5 Korman is behind them and trying to cover up for  
6 them. It's a fraudulent organization.

7           I have a lawsuit and there is a few  
8 defendants in my lawsuit who are cosigners for  
9 (unintelligible) communities. They know very  
10 well. I presented this paper. Why they destroy  
11 all my work what I'm doing?

12           I am asking here - I started this case  
13 because people like my father who deposited  
14 money in Switzerland for good faith and this  
15 money when it (unintelligible) in the right  
16 direction we could make a nice deal and have it  
17 as taking care.

18           The first time when their Paul Walker  
19 who wasn't appointed by us, I wrote him a letter  
20 in '97, get out from our life. He supposedly  
21 find thousands of documents. Who benefitted?  
22 Nobody, not even one Holocaust survivor.  
23 (unintelligible) as one of my friend, she find  
24 an account of her relative. So the eminent  
25 persons in Switzerland claim they lost 17 Swiss

1 franc in the account, so they were very generous  
2 and they give her 170 francs she sign up and she  
3 had no (unintelligible).

4           How can you fight these people? I mean,  
5 there is an eminent group who is deciding how  
6 much money our parents had in the bank account.  
7 I have a witness to my father's account. I have  
8 documents from other people. Why when they never  
9 taken care? Why they deny us everything?

10           I was a child and I survived 15 years  
11 after the war. I was crying, why me. When 55 of  
12 my closest relative perished. Why me? They most  
13 older than me, more knowledge than me, but I  
14 knew I had to - I have family that I have to go  
15 and be my father wanted, and that's why I should  
16 be here and tell you people what's you doing to  
17 us.

18           Now I submit the papers that the whole  
19 settlement was a fraud, a swindle that's  
20 unbelievable. Mr. Newborne is destroying my  
21 papers and (unintelligible) the court. We have  
22 no rights, no survivors win by these  
23 negotiations. There is - Mell Urbach is claiming  
24 \$2 million for his work. While he spies, he  
25 stole my work, what I did. He came to Mr. Fagan,

1 and I told Mr. Fagan he's a spy. He stole my  
2 work that I was doing there, and then he  
3 established an organization. It's a fraudulent  
4 organization. I have all the documents. Why? And  
5 I submitted these documents last year to Judge  
6 Korman. But the same day with do what, he denies  
7 it. He denies and destroy it.

8 I went to - I paid them for appeal  
9 court. They took out three pages from  
10 Mell Urbach's organization and submitted that to  
11 the appeal court and I was denied again.

12 This is justice here? This is robbery.  
13 Why is are they doing? Because they have a lot  
14 of money in the Swiss banks, and they make this  
15 with the Swiss banks behind our back. I'm  
16 telling you I don't believe I'll get ever  
17 justice or one of the Holocaust survivors is  
18 going to get justice. But it's unbelievable  
19 what's going on in this negotiation. People  
20 should just take money and let the Holocaust  
21 survivors who are sick and old, they should get  
22 nothing?

23 VOICE: (unintelligible).

24 MS. WEISSHAUS: And they should get  
25 nothing.

1 I have a woman she is 94 years old. She  
2 lives in Arizona. She ask last year some - women  
3 wrote to the slave labor when they worked in the  
4 factories, they each received 10,000 German  
5 mark. It came out to \$7,000. I told that 94-year  
6 old woman she was there, too. She should submit  
7 an application, too. She submit it. She received  
8 in the beginning of this year a confirmation  
9 letter that she's going to receive the money.  
10 All of a sudden the government went in and  
11 claiming they're going to take the slave labor  
12 money from the claims confidential while  
13 surrounding us for 50 years. Now, she doesn't  
14 receive anything. She call me up now she needs a  
15 \$200 injection. She says when she goes to sleep  
16 she's begging God she shouldn't wake up because  
17 she's a burden on her children and she has  
18 nothing. And these people are claiming \$250 an  
19 hour, \$600 an hour.

20 What I think - I mean, it's very hard  
21 for me to say and I know there is no justice. My  
22 opponents who took away my property and Korman  
23 knows very well what they did, they are  
24 claiming, God Bless America justice. You know  
25 why they blessing America, because there is such

1 a justice prevail here that judges are covering  
2 up and they're not taking the documentation.  
3 It's not a fair trial.

4 I would say it would be more  
5 appropriate to make a number trial and gather  
6 all these people who are robbing us and doing an  
7 injustice to government and to the Holocaust  
8 survivors - this is not a play that they can do  
9 what they want.

10 My parents and my whole family are not  
11 represented in the Holocaust memorials. They  
12 didn't ask for that museum. They asked that  
13 their children should be able to continue. It is  
14 a shame. The way they left not (unintelligible)  
15 and not getting money.

16 When all these people came in, the  
17 lawyers, I was asking Mr. Fagan, who needs so  
18 much lawyers. It's a very important case,  
19 everybody wants to be in it. It's a shame what  
20 you do here.

21 THE COURT: All right, Mrs. Weisshaus,  
22 you've had your time.

23 Thank you, very much.

24 MS. WEISSHAUS: All right. I was  
25 (unintelligible). I wrote yesterday a letter to

1 the Supreme Court of the United States. You  
2 could see it, and I'm going to scream wherever  
3 it's possible, even you - they make me a victim.  
4 I'm a good woman. I had something for my  
5 children. Everything was taken away by the US  
6 government. They are worse than the Germans.

7 THE COURT: All right. Mrs. Beer,  
8 Greta Beer?

9 MS. BEER: It's very emotional.

10 THE COURT: How are you?

11 MS. BEER: Your Honor, Judge Korman,  
12 Special Master Gribetz, I just want to say a few  
13 words.

14 Ladies and gentlemen, my name is Greta  
15 Beer.

16 Many of you know that I've been  
17 involved in the matter of the secret Swiss bank  
18 accounts since the 1960's and now since 1995.

19 At the risk of being repetitious, I  
20 would like mention that my father Ziegfried  
21 Lichdish (phonetic), owner of a big textile mill  
22 in Romania, deposited large amounts of money in  
23 Switzerland in Swiss banks in the fateful pre-  
24 war years of the 1930's. Father repeatedly  
25 assured my mother, my brother and also myself

1 that we were well provided for for life. I  
2 searched for the account, the secret account  
3 with my mother in Switzerland in the 1960's.

4 In 1996 I testified under Senator  
5 D'Amato at the banking hearings at the Senate in  
6 our beloved capitol, Washington, D.C.

7 There I was invited by the Swiss Bank's  
8 representative, Mr. Hans Bayer, to come to  
9 Switzerland. May high officials, Swiss  
10 officials, I met the (unintelligible) man,  
11 Dr. Haney (phonetic). And I have the later here  
12 who later wrote to me that nobody will every  
13 know the truth at the bottom of the secret  
14 accounts affair.

15 After that, we had the great honor to  
16 meet here a young Swiss hero, Mr. Mele  
17 (phonetic), who told us about the shreadings in  
18 Swiss banks of accounts and papers.

19 For the first time in my life, I'm at a  
20 loss for words. Dear Judge Korman, Special  
21 Master Gribetz, the lines behind me are getting  
22 shorter by the day. My mother could have had a  
23 different life; she died destitute.  
24 Please have a heart. We have great trust in you.  
25 You have our lives in your hands. Please,



1 gentlemen, every moment counts.

2           The banks have come forward with money  
3 which is now in your hands. Do not  
4 procrastinate. Our voices are getting so much  
5 fainter. We are the end of our rope. We had, all  
6 of us, a very, very hard life. May God bless you  
7 and guide you, and happy holidays to everybody.

8           Thank you.

9           THE COURT: Mr. Raymond Fischer.

10           MR. FISCHER: Your Honor, distinguished  
11 guests.

12           I'm here as a survivor. I lived through  
13 the war, and in 1939 when the war broke out I  
14 was 14 years old. I was a member of a family. I  
15 had two sisters, four brothers, my parents. When  
16 the war was over just my father and I had  
17 survived. I lost the rest of the family.

18           It was difficult. I was in camps. I was  
19 in Crocco-Plaszow (phonetic) where I was running  
20 a factory. In that factory we were getting in  
21 clothing from people that were murdered,  
22 clothing full of blood. We were made to tear  
23 apart the clothing to look for treasures and we  
24 found, lots of diamonds, gold, money hidden in  
25 the seams behind in the linings. Germans were

1 coming in every single day to collect the  
2 treasures.

3 I'm sure that - I don't know, but I'm  
4 sure that some of the money was deposited within  
5 the Swiss banks or some place else.

6 In my hometown my father was a  
7 businessman. I don't know if he had accounts in  
8 Switzerland. I know of many rich people in my  
9 hometown. I know they did deposit money  
10 somewhere. I'm sure they didn't keep their  
11 monies under their pillows, under mattresses.  
12 But I have no idea what happened, if there are  
13 any claimers for that money.

14 I was told that the Swiss banks are  
15 making available a certain amount of claimants,  
16 only 16,000 or whatever, and there are so many  
17 more. I would appreciate to see that the Swiss  
18 bank would make gesture, this moral gesture to  
19 the survivors and reveal all the claims, all the  
20 accounts that are available because I don't  
21 think that anyone could understand or realize  
22 what it means for a survivor to see, to find a  
23 name that is familiar or a relationship that had  
24 an account or whatever way.

25 I was left from my whole family.

1 Everything was looted. I have nothing left, not  
2 even a picture of anyone. And how welcome it  
3 will be to me to see that anyone in my family or  
4 anyone of my relatives or ancestors had an  
5 account within Switzerland or some place else.  
6 I don't think that anyone could understand this,  
7 the meaning of it, only a survivor could do so.

8 Thank you, your Honor.

9 THE COURT: Thank you.

10 Mr. James Pellechia.

11 MR. PELLECHIA: Your Honor, Special  
12 Master Gribetz, distinguished colleagues, dear  
13 survivors, concerned citizens, I'm honored to  
14 speak today on behalf of Jehovah's Witness  
15 survivors of Nazi persecution.

16 Members of this small religious  
17 community suffered severely for their beliefs.  
18 The losses they suffered were both human and  
19 material, children taken away from parents,  
20 pensions and insurance policies were cancelled,  
21 professional license were withdrawn, business  
22 properties were seized, men and women were  
23 forced to leave their jobs and live underground  
24 and were forced to do slave labor in prisons and  
25 concentration camps. Men and women were broken

1 down, worked to death, mutilated or executed.

2           Jehovah's witnesses were among the  
3 first targets of Nazi persecution started on  
4 April 1, 1933, that's prior to the mass arrest  
5 of the Jews in November 1938. Jehovah's  
6 Witnesses comprised 5 to 10 percent of the Nazi  
7 concentration camp population according to  
8 Dr. Detlif Garber (phonetic) of the Neuengamme  
9 Memorial Museum. At least 364 were directly  
10 executed by shooting or by the guillotine for  
11 their conscientious objection to becoming part  
12 of the Nazi Army and "killing machine"; thus,  
13 comprising the largest single group of  
14 conscientious objectors executed by the Nazis.

15           Many of their fellow victims remember  
16 the Witnesses for their steadfast refusal to  
17 comply with the Nazi ideology of hate and  
18 violence. The suffering of this small group,  
19 like those of others, have gone unacknowledged  
20 and uncompensated for many years. The matter of  
21 economic restitution to the Witnesses after the  
22 Nazi period has been problematic. The German  
23 Federal Republic has given some compensation,  
24 but still refuses to recognize the status of  
25 those who suffered because they would not serve

1 in the Nazi Army. And the German Democratic  
2 Republic, compensation was made dependent on  
3 adherence to communism. Because the Witnesses  
4 did not support the communist system, they were  
5 removed from the list of victims of fascism, so  
6 that thousands of legitimate Nazi victims were  
7 deprived of compensation.

8           Thus, a proposal for a more formal  
9 arrangement with IOM, a separate legal entity  
10 perhaps designated by a watchtower society to be  
11 used to assist survivors with the application  
12 process, including individuals who may belong to  
13 other class categories and who are now  
14 associated with congregation of Jehovah's  
15 Witnesses.

16           And so today to Judge Korman, Judith  
17 Gribetz and all those who have worked tirelessly  
18 in continuing efforts to balance the scales of  
19 justice, I wish to convey thanks from the few  
20 remaining Witness survivors who are gratified to  
21 know that the blood of their martyred brethren  
22 as well as their own painful losses are here  
23 recorded as an indelible testimony that they  
24 were people during that dark period who, despite  
25 the great cost, stood for peace, love of God and

1 love of neighbor.

2 Thank you.

3 THE COURT: Norman Rosenbaum.

4 MR. ROSENBAUM: Your Honor, Special  
5 Master Gribetz, counsel, survivors, ladies and  
6 gentlemen.

7 Your Honor, I thank you for the  
8 opportunity to speak this morning to you. I  
9 speak and appear here as counsel for the  
10 Australian-Asian Pacific Jewish Restitution  
11 Committee on behalf of survivors and their heirs  
12 who reside in the Australia-Asia Pacific area.

13 Your Honor, in the time allocated to me  
14 I won't necessarily go over matters already  
15 mentioned this morning, but bring to your  
16 attention certain matters which haven't been  
17 mentioned, at least, to date.

18 It is true to say that the survivors in  
19 the Asia-Australia Pacific area sincerely  
20 appreciate the hard work and diligence and to  
21 take not only by you, your Honor, Special Master  
22 Gribetz, but indeed all counsel and appreciate  
23 the daunting task before you.

24 At the same time I think it's important  
25 to appreciate that those "down under" as they

1 say are not always necessarily as well versed in  
2 all goings on; notwithstanding, the best efforts  
3 and intentions of those here in the United  
4 States. Particularly, your Honor, when one hears  
5 the overriding principles to be applied in this  
6 whole process as being openness and  
7 transparency, I feel it appropriate to bring to  
8 your attention by way of information only, not  
9 necessarily as a criticism, the difficulty  
10 encountered by people who wanted to obtain the  
11 summary from the San Francisco telephone number  
12 in regard to the Special Master's allocation.

13           Unfortunately, as we all know,  
14 Holocaust survivors are an aging population. And  
15 instead of complaining necessarily, they just  
16 keep ringing. And unfortunately, as I stand here  
17 today, I think it's worthwhile bringing to your  
18 attention the fact that many of them have not  
19 necessarily received as of today copies of the  
20 summary, at least, from San Francisco. I must  
21 say that I tested it out myself and I'm still to  
22 receive. Although,  
23 Mr. Gribetz' office was very kind to provide  
24 me with the two volume version.

25           Your Honor, in terms of the actual

1 proposal itself, there is no question that the  
2 priority plan given to the deposited assets  
3 class is to be wholeheartedly endorsed and that,  
4 unfortunately notwithstanding that priority,  
5 there is an anticipation that the administration  
6 of the process will be hand strung to a  
7 significant degree because of the refusal by the  
8 Swiss bankers, the defendants in this case to  
9 make available all of the names which the Volka  
10 (phonetic) Committee identified as being account  
11 holders.

12           This is seen as being a reprehensible  
13 action on behalf of the defendant banks who seek  
14 to take advantage of the releases which is seven  
15 and make four, but at the same time place the  
16 allocation and distribution process in  
17 significant jeopardy at least from the point of  
18 view of those seeking to make an application who  
19 believe that until now whereas they have not  
20 been given that independent recognition that the  
21 accounts which they claim do, in fact, exist and  
22 now being denied access by those who have at all  
23 times in the last 55 years have had this  
24 information. Now it's being exposed, and they  
25 have the audacity to stand before this Court as



1 part of this process and deny people the  
2 opportunity as you've quite rightly identified  
3 and as Special Master Gribetz in his judgments  
4 and recommendations accessed this crucial  
5 information.

6           Your Honor, part and parcel is Special  
7 Master Gribetz' recommendations is the faith  
8 that he has, as I believe you have, in the role  
9 of the Claims Resolution Tribunal.  
10 Unfortunately, many people in Australia can't  
11 share that faith.

12           I draw to your attention but one  
13 example of the difficulties which have been  
14 encountered with the Claims Resolution Tribunal.  
15 It involves the case of Mr. Andrew Roma. Mr.  
16 Roma's grandfather, after whom he is named, also  
17 Andrew Roma, held an account and was one of the  
18 original 1800 names published. Mr. Andrew Roma,  
19 the grandson, made application by Ernest & Young  
20 and started communications with the Claims  
21 Resolution Tribunal in Zurich.

22           I have here correspondence of late  
23 which demonstrates clearly that, although he  
24 made every effort to try and get information  
25 from the tribunal in regard to the accounts so

1 he could share with his relatives who are  
2 equally entitled to share in that claim, not  
3 only was it denied and never processed, but  
4 correspondence from Mr. Roma was never  
5 acknowledge. And the options which the tribunal  
6 had put to him in terms of if the claim is to be  
7 pursued and what would happen if he chose not to  
8 accept a settlement came to an abrupt end on the  
9 2nd of November this year when unceremoniously  
10 after denying any correspondence having ever  
11 been received from Mr. Roma, they sent a letter  
12 saying your file is not closed and your claim  
13 will not be processed further.

14           Again, unfortunately, this has been  
15 provided and I will hand up to you four letters  
16 which demonstrate correspondence from Mr. Roma  
17 to the Claims Resolution Tribunal that,  
18 unfortunately, the faith which you have placed  
19 in the Claims Resolution Tribunal should be  
20 qualified and every effort should be made to  
21 ensure that the administrative processes be  
22 maintained to match the intention, because  
23 clearly that's not so.

24           In terms of the looted asset class,  
25 it's respectfully put that the concept of the

1 cypres principle being applied at this point in  
2 time is premature. I endorse the earlier  
3 comments that even it was to be applied, that a  
4 shorter time period should be adopted.

5           There are many people who feel that  
6 while they accept the general propositions in  
7 regard to how difficult it would be to pursue a  
8 looted assets claim, that they themselves hold  
9 evidence which places them different from the  
10 rest of the people. While it's difficult for me  
11 in this time to put to you how that would  
12 necessarily play out, I believe it's equally  
13 important that these people be given an  
14 opportunity at least to present their cases and  
15 re-evaluate if necessary whether the fact the  
16 looted assets class should be made available on  
17 a per-person basis, notwithstanding the earlier  
18 comments that to do so across the board would  
19 exhaust the \$1.25 billion settlement sum.

20           In terms of the administration of the  
21 allocation of funds, people in Australia have a  
22 fond memory of the contribution and the  
23 assistance they received from the joint.  
24 Unfortunately, the same cannot be said in terms  
25 of the claims conference. People in Australia

1 are very concerned that the claims conference,  
2 notwithstanding their 50 years of participation  
3 in the administration of restitution matters,  
4 that they're performance during that time has  
5 been less than satisfactory.

6 In terms of openness, transparency and  
7 equity, they believe that the Claims Tribunal,  
8 at least in terms of those in Australia, has  
9 achieved none of those objectives in their past  
10 and put by pointedly they have significant  
11 reservations if they could do it in the future.

12 The complaints received of the lack of  
13 openness, no transparency, lack of  
14 communication, no representation, lack of  
15 sensitivity have been borne over time and time  
16 again. Suggestions which have been made only too  
17 frequently is to invite claimants to nominate  
18 whether, in fact, the Claims Conference or any  
19 other organization or whether a new structure  
20 should be put in place when a claims process is  
21 actually formed and claims are allowed to be  
22 made for the first time.

23 The concern held here is that in order  
24 to expedite matters, in order to ensure that the  
25 money gets to those who deserve to get the money

1 as quickly as possible, that the past  
2 performance of the Claims Conference not be  
3 allowed to interfere with that.

4 VOICE: That is right.

5 MR. ROSENBAUM: While I can't speak on  
6 behalf of anybody in the United States, these  
7 are concerns which have been raise significantly  
8 and seriously by many hundreds of people in  
9 Australia. And, if nothing else, the concern is  
10 that even the local representatives of the  
11 Claims Conference in Australia are  
12 ill-equipped to handle the administration in any  
13 way of the allocation plan.

14 Your Honor, I thank you for the  
15 opportunity again to appear before you.

16 THE COURT: It's always a pleasure to  
17 see you.

18 MR. ROSENBAUM: And it's a pleasure  
19 being here. I wish it was under different  
20 circumstances. And as always, if we can be of  
21 any assistance to either the Court or  
22 Special Master Gribetz, his availability to us  
23 has been greatly appreciated at all hours of  
24 time and day, which when one takes into account  
25 the 16-hour time difference from Melbourne to

1 New York has been much appreciated. And also  
2 your staff and the staff of Mr. Gribetz.

3 A lot of people here, they take things  
4 for granted. This has been a very hard and  
5 difficult run, particularly when you're doing it  
6 by long distance.

7 Thank you, very much.

8 THE COURT: Mr. Schonbrun.

9 MR. SCHONBRUN: Good morning, your  
10 Honor, Special Master Gribetz, counsel and  
11 members of the class.

12 Your Honor, my name is  
13 Lawrence Schonbrun. I'm appearing on behalf of  
14 Steven Zuber and Henry Smith.

15 Your Honor, my expertise is in the  
16 field of class actions where things go wrong  
17 and, unfortunately -

18 THE COURT: Are there any ones where  
19 they go right?

20 MR. SCHONBRUN: The problem is they make  
21 such glaring - there are such glaring problems  
22 that I think they need to be addressed, and I've  
23 read through these papers. What I'm hoping to  
24 do is to bring your attention to my experience  
25 in scores of these cases to highlight where I

1 think you need to put your attention.

2           And I would say, this particular case  
3 is a case where the utmost protection is needed  
4 because of the claims that have been resolved in  
5 the process.

6           The first point I would make is lack of  
7 a timetable. Your Honor, this is a case that was  
8 described: "Time is of the essence." Survivors  
9 are old and they're dying, yet there is no  
10 expectation, no hint, of when, for example,  
11 these claims are going to be resolved. The bank  
12 claims are going to be resolved. It's just left  
13 vague.

14           My suggestion to you, in light of the  
15 fact that the phrase was used, "Class members  
16 are dying by the month." I remember every month  
17 X number. I would ask you to have a report,  
18 demand that a report be issued to you by who is  
19 ever taking care of these claims stating to you  
20 what the process of this claims procedure is,  
21 how many claims have been processed, how many  
22 claims are yet to be processed, and what is the  
23 time expectation.

24           THE COURT: Mr. Schonbrun, I could start  
25 the claims distribution process while there's an

1 appeal pending from the fairness order? Is that  
2 your view?

3 MR. SCHONBRUN: The fairness, yes. The  
4 fairness of the allocation?

5 THE COURT: No, of the settlement  
6 agreement. There's an appeal pending right now.  
7 Are you aware of that?

8 MR. SCHONBRUN: That's a separate issue.  
9 I'm aware -

10 THE COURT: I know it's a separate  
11 issue, but it's a big impediment to start  
12 distributing money right now.

13 MR. SCHONBRUN: No, I'm not talking  
14 about starting to - wait a second. I am not  
15 talking about starting to distribute money. What  
16 I'm saying is that you should be getting a  
17 report from whoever it is on a monthly basis  
18 about what's going on in terms of the allocation  
19 process. If, indeed, the report comes to you  
20 nothing is being done because a claim is -  
21 because an appeal is pending, so be it. But I  
22 think that this is something that should be  
23 included in what you do.

24 Point number two, that money being  
25 spent there is a lot of, I believe, sincere



1 concerns that money is going to be gobbled up in  
2 the administration process. And I would ask you  
3 along with that monthly report that there is a  
4 monthly report filed from whatever fund that  
5 presently exists and that the Swiss have made so  
6 that it's both public knowledge and your  
7 knowledge of what money is going out to whom for  
8 what during this period.

9           The second point, your Honor, is the no  
10 cap on administrative expenses. As I say, one of  
11 the problems have been raised in class action  
12 generals, particularly in this case, is that  
13 overhead eats up a class action settlement fund.  
14 Now, I believe nothing has been in this report  
15 by the Special Master to give any kind of hope  
16 or any kind of protection that that isn't going  
17 to happen in this case.

18           My two suggestions are to you, number  
19 one, that you tell the Special Master he's got a  
20 wealth of class action expertise in the lawyers  
21 that are here, that you want to see in that  
22 report something that's written that can assure  
23 you and assure class members that settlement  
24 administrative costs are not going to eat up  
25 this settlement.

1 I would also suggest to you as an  
2 alternative an ombudsman that you reach out to a  
3 responsible critic. And as I say, it seems to be  
4 this class action falls into those people who  
5 want money to go to organizations and those  
6 people who want to see individual distributions.  
7 And there are many prominent people here on both  
8 sides of it. I would suggest that you reach out  
9 and appoint an ombudsman who would be able to  
10 look over these funds to make sure that they're  
11 being spent properly.

12 Next point -

13 THE COURT: I thought that's what I'm  
14 supposed to be.

15 MR. SCHONBRUN: Well, it seems to me  
16 that there's too much detail involved for a busy  
17 federal judge to get into that kind of detail,  
18 but if you're going to do it, fine. If you want  
19 to become the ombudsman or if you're going to do  
20 that, it's acceptable as long as it's done by  
21 someone.

22 Next, your Honor, is no record of  
23 distributions. I see nothing in the special  
24 master's report that indicates that there's  
25 going to be any record available to the public

1 and to class members about how money is being  
2 spent in this case.

3 THE COURT: You know, you're getting  
4 involved in nitty-gritty. The special master's  
5 report is a general plan of allocation which has  
6 specifics, but what you're getting down to is  
7 minor detail, but it's going to of course be  
8 done.

9 MR. SCHONBRUN: Well, I'm -

10 THE COURT: I mean, you think that this  
11 thing is going to be administered, money is  
12 going to be spent, nobody is going to know about  
13 it without controls? I don't know what you're  
14 talking about.

15 MR. SCHONBRUN: Well, I already - I  
16 already know in -

17 THE COURT: There's a plan of allocation  
18 here that I'm ready to hear comment on. That  
19 plan, for example, doesn't -

20 VOICE: The nitty-gritty where this  
21 money is stolen.

22 THE COURT: That plan -

23 VOICE: The money is stolen is the  
24 nitty-gritty. It's the details, that's the  
25 problem.



1 THE COURT: Yes, I know. And it's easy  
2 to make charges and it's hard to prove.

3 MR. SCHONBRUN: I'm not making any  
4 charges.

5 VOICE: (unintelligible) to demonstrate  
6 that.

7 MR. SCHONBRUN: Your Honor, let's - to  
8 the extent that it's going to be done, that's  
9 fine.

10 The next point, your Honor, is the  
11 distribution of the residue, and the  
12 \$800 million figure is not a concrete figure. So  
13 there are - and I think the special master's  
14 report acknowledges there are perhaps hundreds  
15 of millions of dollars that right now aren't  
16 going to be assigned - aren't being given to  
17 anyone.

18 THE COURT: There may or may not be.

19 MR. SCHONBRUN: Right, and I -

20 THE COURT: When we know what the  
21 residue is then we can make a rational judgment  
22 about how it should be spent. There's a big  
23 difference if there's going to 5 million or  
24 200 million or 300 million or 25 million.

25 MR. SCHONBRUN: Your Honor -

1 THE COURT: There's no point - you can't  
2 make a rationale judgment about residues until  
3 you know what the residue is.

4 MR. SCHONBRUN: Let me - if I would just  
5 - I appreciate that, but I have to say on the  
6 other hand, we have a dying population of class  
7 members.

8 THE COURT: I know that.

9 MR. SCHONBRUN: This is a situation  
10 where you're saying we're going to have to wait  
11 until we find out when the wait is totally  
12 unspecified in the agreement.

13 THE COURT: It's not unspecified.  
14 There's going to be period of time in which  
15 people are going to have an opportunity to file  
16 claims for the Swiss bank accounts. When those  
17 claims are filed, then we'll have a better idea,  
18 for example, of how many claims we're going to  
19 be dealing with when the actual claim is met and  
20 the we can proceed from there.

21 Look, this is the nature of a class  
22 action lawsuit. In the best of all possible  
23 worlds, this case wouldn't have been settled in  
24 the context of a class action lawsuit and maybe  
25 things could have moved faster. But we're

1 operating under, as you know, rules and  
2 restrictions that delay and that make for a less  
3 desirable plan than if we were sitting around in  
4 the best of all possible worlds constructing a  
5 plan for distribution.

6 In any event, I haven't heard any  
7 complaint yet about the plan, other than we  
8 haven't made provision for - the special master  
9 hasn't recommended what to do with the residue  
10 when we don't know how large the residue is.

11 MR. SCHONBRUN: Denial of any recovery  
12 to the looted assets class, your Honor, as I see  
13 it that the organizations have the least legal -  
14 they have the weakest legal claim.

15 THE COURT: Who is recommending to give  
16 money to organizations for their own use?

17 MR. SCHONBRUN: Well - I'm not saying  
18 for their own use. But, again, the -

19 THE COURT: Well, you know, there has to  
20 be some mechanism to distribute money.

21 MR. SCHONBRUN: Correct.

22 THE COURT: I can't set up that  
23 mechanism, as you well understand, here in this  
24 court. And there are agencies and organizations  
25 who are already in place distributing money. And

1 without any additional cost we could take  
2 advantage of that distribution mechanism. You  
3 know, this constant harping that money is being  
4 given for organizations is not true. There isn't  
5 a recommendation in the special master's report  
6 to give money for organizations for their own  
7 use.

8 MR. SCHONBRUN: Okay, money through  
9 organizations is perhaps -

10 THE COURT: For the use of people for  
11 survivors, yes.

12 MR. SCHONBRUN: Yes, but your Honor if I  
13 can speak to that.

14 Number one, I'm surprised when we're  
15 talking about potentially, you know, tens,  
16 hundreds of millions of dollars, I didn't see  
17 anything in the special master's report about  
18 the organizations that are going to be getting  
19 this money. It seems to me -

20 THE COURT: That's not true.

21 MR. SCHONBRUN: The other point that I  
22 would make is that we have a horrible record in  
23 terms of money. Our own government is on record  
24 as having given billions of dollars to Russia,  
25 perhaps to central Europe, that has been -



1 VOICE: Six billion dollars for Russia.

2 MR. Schonbrun: - with the best of  
3 intentions that wound up, you know, ironically  
4 in Swiss bank accounts. And I just don't see in  
5 this proposal, I don't see any kind of  
6 protections that someone who was sensitive to  
7 this potential has enough information and  
8 there's enough oversight.

9 I mean, now you're suggesting the Court  
10 is going to - and I've raised this point - what  
11 jurisdiction do you have? Are you going to be  
12 able to oversee tens of millions of dollars  
13 being given away in Belorussia or some republic  
14 on the parameter of Russia. I just don't  
15 realistically see that. And to me that's a  
16 reason why there has to be an extra -

17 THE COURT: The money is not going to  
18 the Russian government, and the money is not  
19 going to the Belorussian government. It's going  
20 to be going to responsible organizations who are  
21 going to operate under the control of the Court  
22 and it will be obligated to make reports.

23 I mean, these charges you're making are  
24 totally irresponsible.

25 MR. SCHONBRUN: Your Honor, I'm not

1 making any - I'm not making any charges.

2 THE COURT: You are, you are. You're  
3 saying \$66 billion went to Russian and it  
4 went -

5 MR. SCHONBRUN: I never said that.

6 THE COURT: - down some black hole.

7 MR. SCHONBRUN: I didn't say that.

8 All I'm saying is that there is - I  
9 have appeared in scores of class actions, your  
10 Honor, I see what goes wrong in class actions.  
11 I see great problems, potential problems in this  
12 proposal for things to go wrong.

13 All I'm trying to do is alert you to  
14 the kinds of things to go wrong, if you put it  
15 to devil in the details, so that you will be  
16 aware of what I think you need to do to insure  
17 and protect this class, to insure indeed that  
18 there is transparency, that there's a public  
19 record, that everyone can rest assured that this  
20 money is going to get in the hands of proper  
21 people.

22 I don't see this document as containing  
23 those protections.

24 Your Honor, I am not accusing anyone of  
25 anything. I just have appeared in the past ten

1 years over these cases and I know how things can  
 2 go wrong. And in this particular case, I want to  
 3 try to insure that that doesn't happen.

4 THE COURT: Thank you.

5 MR. SCHONBRUN: Thank you.

6 THE COURT: Mr. Ernest Lobett.

7 VOICE: Thank you very much for having  
 8 us here. I wish you well and peace, peace to all  
 9 of you.

10 And your Honor I hope you make the  
 11 right decision for our people.

12 THE COURT: Thank you.

13 VOICE: Thank you.

14 MR. LOBETT: Your Honor, Special Master,  
 15 I have appeared here before and I'm not trying  
 16 to outguess the report that was made by the law  
 17 firm of Richard & O'Neil on behalf of the  
 18 master. I'm sure they have worked very, very  
 19 hard in trying to come to a solution of how to  
 20 distribute the monies that are available, and I  
 21 really don't think that there is a solution. It  
 22 is an enormously difficult subject. There are  
 23 literally hundreds of claims of competing  
 24 interests here, and I do not think your Honor  
 25 would be able to satisfy all these claims,

1 regardless what decision you finally make. It  
2 will be an absolute impossibility. One has to do  
3 the very best that can be done under the  
4 circumstances.

5           And as far as the individual classes  
6 are concerned, I'm not to outguess the special  
7 master with respect to the monies that were  
8 deposited in Switzerland. It is at best a guess,  
9 but it has been studied by the Volka Commission.  
10 They have come up with guesses based - not  
11 uneducated guess, but based on records that they  
12 have examined. And they feel this \$800 million  
13 should be set aside, and who am I having not  
14 made any individual searches of my own to say  
15 no, that shouldn't be so.

16           So I think at least initially the  
17 \$800 million should be allocated because I think  
18 everybody at least agrees on one thing, that  
19 those people that can demonstrate a nexus to  
20 these monies that were deposited in Switzerland,  
21 be it by themselves or more likely by their  
22 relatives and next of kin, should be the very  
23 first ones to be compensated because that, after  
24 all, was the nature of this lawsuit. And, of  
25 course, that should also be true then for those

1 people that tried to get them to Switzerland  
2 that were sent away by the Swiss and obviously  
3 found their death.

4           With respect to the slave labor class  
5 that worked for German companies, \$100 million  
6 has been set aside. It has been said many times  
7 before that the sum is totally inadequate, but  
8 this is water over the bridge.

9           THE COURT: I know, but you understand  
10 that this is in addition to what these people  
11 will be getting under the German settlement.

12           MR. LOBETT: Right, but -

13           THE COURT: So it has to -

14           MR. LOBETT: - this is not the issue  
15 here.

16           THE COURT: I'm not saying that even  
17 that's enough, but we're dealing with a finite  
18 amount of fairness.

19           MR. LOBETT: We're dealing with a finite  
20 thing and we're dealing with primarily with  
21 money that was contributed by the Swiss banks,  
22 \$1,250,000,000 and my understanding is that this  
23 is the issue here today, what to do with that  
24 particular money.

25           And so we have the slave laborers,

1 myself included who worked for German companies  
2 who had some nexus with Switzerland and  
3 presumably the result of my labor produced some  
4 benefit, whoever knows, to Switzerland.

5           And we have a class, the looted asset  
6 class, and I belong to that class, too. And that  
7 by far should, by all rights, be far the largest  
8 class because everybody that was arrested by the  
9 Nazis and spent time whether in concentration  
10 camps or in prison or what have you was deprived  
11 of his assets that ultimately found their way to  
12 the Wrights Bank, presumably, what wasn't stolen  
13 by DSS to the Wrights Bank in Berlin.

14           And with respect to the gold and  
15 silver, et cetera, it was melted down into  
16 ingots and went, and I am sure and I can't prove  
17 that, in large part to pay for the German war  
18 effort during the Second World War because  
19 Germany at the outbreak of the Second World War  
20 had practically no foreign currency at their  
21 disposal and they had to pay for a great number  
22 of war material that they did not produce,  
23 including gasoline and iron and what have you.  
24 And a lot of that has been demonstrated - went  
25 to Switzerland either to be used by them

1 directly or sent further to Sweden, Portugal and  
2 what have you.

3           So this is by far the largest class,  
4 and this is the class that of course is going to  
5 bring here the greatest controversy because  
6 there are literally hundreds of proposals out,  
7 how to spend the money that's been allocated,  
8 \$100 million to the looted asset class, and  
9 there is no solution to that, absolutely none.  
10 And the special master has made the  
11 recommendation of setting aside \$67 million, I  
12 think it is, for needy Jews in the Soviet Union  
13 or Eastern Europe and deposit -

14           THE COURT: And elsewhere.

15           MR. LOBETT: - the remainder of it -

16           THE COURT: And elsewhere.

17           MR. LOBETT: - in various - elsewhere.

18           THE COURT: And elsewhere, too.

19           MR. LOBETT: And elsewhere, yes.

20           One cannot argue of making money  
21 available to needy people, whether they're Jews  
22 or not, out of these monies that are being  
23 deposited there. Still, it is going to be an  
24 extremely difficult task for these organizations  
25 that are to distribute it.

1           And considering the competing claims  
2 and what I can foresee tremendous amount of  
3 litigation and disagreement and appeals and  
4 hearings, I do not know whether this, your  
5 Honor, even if it is under the supervision of  
6 the Court, can be effectively effectuated. I  
7 really don't know, but I have grave doubts.

8           And I have doubts about some of the  
9 claims that I have seen that go to very  
10 religious organizations that would want to  
11 rebuild Yeshivas and synagogues and establish  
12 additional memorials, which I myself - and I'm  
13 only speaking for myself - have grave doubts as  
14 what these - and I'm not claiming to speak for  
15 the dead - would have wanted. But I would like  
16 to point out and it might not be politically  
17 correct to say that here, but the vast majority  
18 of these people that we hurtled in the gas  
19 chambers of Auschwitz, Birkenau, from 1941  
20 through 1945 or the end of '44 were undoubtedly  
21 eastern Jews and probably most of them highly  
22 religious. And it is only in the last five  
23 minutes of their lives, herded naked into these  
24 gas chambers without knowing their fate and only  
25 after the cyanide being administered through the



1 roof and it took five minutes to die, and we  
2 have this Auschwitz process in Frankfurt  
3 testimony both by the perpetrators and by the  
4 very few victims, that it took five minutes to  
5 die. And only in those last five minutes, your  
6 Honor, do I think that the vast majority of  
7 these people realize what their fate was when  
8 they died. And as they were gasping for air and  
9 as they were suffocating and trampling over  
10 their weaker brethren and the children at the  
11 bottom, I myself believe, your Honor, that maybe  
12 they might have had some doubt about a God that  
13 had forsaken them.

14           And I believe, your Honor, that these  
15 people probably would not want Yeshivas and  
16 other memorials established in their name.

17           VOICE: How do you know that.

18           MR. LOBETT: Thank you.

19           I don't know that.

20           VOICE: So say you don't know.

21           MR. LOBETT: I don't know that. That is  
22 my own opinion.

23           VOICE: (unintelligible)

24           MR. LOBETT: You're entitled to yours.

25           THE COURT: Please.

1 MR. LOBETT: Thank you, your Honor.

2 THE COURT: Thank you.

3 MR. LOBETT: That's all I have to say.

4 THE COURT: Rabbi Morris Schmidman.

5 RABBI SCHMIDMAN: Thank you. I will try  
6 to set an example of the five minute limit that  
7 was supposed to be set for all of the speakers  
8 and perhaps leave over a half minute or so to  
9 another distinguished colleague.

10 Let me first express my personal  
11 appreciation to your Honor, to this Court, for  
12 getting us to reach this day finally and our  
13 tribute to Special Master Judah Gribetz and his  
14 staff for a very thorough and very informative  
15 presentation, some of which I think can be  
16 improved upon.

17 And last, but certainly not least, it  
18 is for the prior distinguished panel of  
19 attorneys who made all of this possible, and I  
20 think that we owe them a great deal of gratitude  
21 and appreciation for what they have done for the  
22 sake of so many Holocaust survivors.

23 Much of what we raise regarding the  
24 special master's report is contained in our  
25 official objections which has been filed with

1 the court. And I don't want to impose upon this  
2 Court or this audience to recite that once  
3 again. Some of the important (unintelligible)  
4 aspects of it have been addressed by our  
5 distinguished counsel, Mr. Steve Winston and  
6 some will be addressed yet by our attorney,  
7 Mr. Mell Urbach.

8 I only want to raise and call your  
9 attention to two aspects, but I don't want to  
10 let this moment pass by without expressing my  
11 sorrow at some of the comments which were made  
12 just a moment ago regarding the religious life  
13 of the millions of Jews that perished in the  
14 Holocaust and what they really felt and believed  
15 or to demean the millions who adhere to a very  
16 rigorous religious lifestyle and who would love  
17 to see that perpetuated.

18 Throughout all of this process, we have  
19 been guided one fundamental principle, and that  
20 is that all of the funds, all of the funds,  
21 should go to survivors and to survivors only.  
22 And by "survivors" we place this into  
23 categories. The survivor individuals or whatever  
24 category they fit into this class action and  
25 survivor communities and congregations.

1           And the Court will note that in the  
2 official initial questionnaire that was  
3 distributed and made the basis for some of the  
4 future claims that this Court and the attorneys  
5 involved approved of the category which was in  
6 Category 3 on page 2, "If the subject is  
7 business organization, congregation, community  
8 or other entity, please supply the following  
9 information." This indicates there was a  
10 specific purpose or desire that congregations or  
11 community organizations have an opportunity to  
12 submit a claim and could rightfully anticipate  
13 that if there was a distribution, that they  
14 could participate in it.

15           I think that this applies with greater  
16 force today that this be implemented and this  
17 group be included in the process. The only way  
18 in which they fit in is under the category of  
19 looted assets, and difficulties regarding that  
20 have been raised here. But some of the answers  
21 to that problem have also been set forth in  
22 terms of the reallocation of some of the funds,  
23 and if additional funds were made available  
24 there could be a significant amount attached for  
25 looted assets for individuals.

1           And just as there's been no difficulty  
2 in solving the slave labor problem, at least  
3 slave labor Category 1 in terms of potential  
4 distribution to them, whether it be \$500 or  
5 \$1,000, that something be distributed to them, I  
6 think this could equally be done in connection  
7 with looted assets. And even if it's the most  
8 minimal amount, it is there money and they  
9 deserve to receive it as being part of this  
10 litigation and fitting into the class  
11 categories.

12           But supposing even that that could not  
13 be done thoroughly, we would recommend that the  
14 Court set aside a subclass which is community  
15 organizations and congregations, that this  
16 subclass be entitled to funds from the looted  
17 assets category. This is an identifiable and  
18 extremely small group, but they can be  
19 identified and they could be recipients without  
20 a problem of there being no way of tracking them  
21 or knowing where they are or what the  
22 distribution should be. And we would recommend  
23 that the Court set aside subfund and cap the  
24 fund that between \$50 and \$60 million which  
25 would be reserved for the purpose of

1 distribution to organizations and community  
2 organizations and congregations, so that they  
3 can pool out the successors to that which has  
4 been destroyed, that they just like individuals  
5 who lost these assets can retrieve them through  
6 this restitution process.

7           And, finally, your Honor, I want to  
8 comment also on our behalf in connection with  
9 the proposal that the special master sets aside  
10 for creating a victims list and for which  
11 \$10 million is set aside. It is in our opinion  
12 that the proposed expenditure of \$10 million to  
13 create such a victims list does not comport with  
14 the legal principles which would permit a cypres  
15 distribution, and these funds belong to the  
16 class and should be allocated to the class. The  
17 creation of a victims list, while perhaps a  
18 laudable enterprise, is unnecessary. It exists  
19 in so many formats. ISEP has used lists created  
20 by Yad Vashem and for other institutions that  
21 are already available, and to take \$10 million  
22 and spend it on that is in, our opinion, not the  
23 best choice in itself.

24           And even though this \$10 million -  
25           THE COURT: But those lists are

1 incomplete.

2 RABBI SCHMIDMAN: I'm sorry.

3 THE COURT: Those lists are not  
4 complete.

5 RABBI SCHMIDMAN: I understand that. I  
6 understand that, your Honor.

7 But despite that fact, the mere fact  
8 that that amount of money is being spent for  
9 that is not the most worthwhile purpose and does  
10 not fit into all of the principles. And even  
11 though it's \$10 million only, which seems like a  
12 very, very small amount, if that amount were  
13 placed in the looted asset category, it could be  
14 a far more beneficial and purposeful use of  
15 these restitution funds.

16 I want to just conclude also by  
17 indicating that in the category of the  
18 congregational community purposes, our  
19 organization which represents many of them is in  
20 a position to assist and see that the  
21 distribution as so presented be carried out in a  
22 very, very effective and informal fashion.

23 I want to thank you once again for this  
24 opportunity of presenting our objections and  
25 call your attention of those that are interested

1 to the detailed information contained in our  
2 formal objections filed with the court, as well  
3 as a copy of our original distribution plan. I  
4 think that if adopted it improves that which the  
5 special master has so effectively done and would  
6 present a fairer and more equitable process for  
7 it.

8 Thank you.

9 THE COURT: At the very least, your plan  
10 is on the Internet. It's on our Internet site,  
11 your plan, in case anybody wants to find it.

12 RABBI SCHMIDMAN: I didn't hear that.

13 THE COURT: I said your plan is on our  
14 Internet site.

15 RABBI SCHMIDMAN: Oh, thank you, very  
16 much.

17 THE COURT: If anybody wants to read it.

18  
19 Dr. Norbert Beckales.

20 MR. BECKALES: My name is Norbert  
21 Beckales. I live in McLean, Virginia, and I'm  
22 the secretary of the Federation of Jewish Child  
23 Survivors of the Holocaust. We have 43 groups  
24 and in 16 countries. And as a result of our  
25 international presence, we've recently renamed



1 ourselves the World Federation of Jewish Child  
2 Survivors of the Holocaust.

3 I'm going to be very brief and not go  
4 over the points. I was here a year ago and I  
5 presented, I think, our point view rather  
6 clearly. But I would like to reiterate it  
7 because it has come out - it may come up in  
8 connection with the deposited assets claim and  
9 also with the looted claims, any residual funds  
10 that may be remaining there.

11 We are of a very firm and strong  
12 opinion that all money should go to survivors,  
13 all money should go to survivors and none to  
14 organizations. And by that, let me be specific.

15 I did not bring a clock here. I'm  
16 sorry. I apologize, your Honor.

17 None should go to organizations, and by  
18 that I mean the following:

19 It should not be to organizations that  
20 are created for purposes that are other than  
21 social welfare of survivors. It is only for  
22 social welfare, for medical welfare. It is for  
23 the direct use for the benefit of survivors that  
24 organizations should be receiving any money,  
25 including any residual monies.

1           So those were the two points that I  
2 made last time. I would like to add a point that  
3 has not been made by anyone who spoke before me.  
4

5           I would like to see personally that  
6 when the money finally does get distributed that  
7 a letter apology goes with it, a personal letter  
8 addressed to an individual, saying that a wrong  
9 was done to you with a name, and this is a small  
10 measure of compensation for it.

11           Finally - and I see I am not using up  
12 my time and that's just fine with me - we ask  
13 for an expeditious conclusion of this  
14 litigation. Our people are getting older; they  
15 need the money now. And so we ask that you  
16 please take every step to do this as  
17 expeditiously as possible.

18           Thank you, very much.

19           THE COURT: Leo Rechter.

20           MR. RECHTER: My name is Leo Rechter,  
21 executive director of the National Association  
22 of Jewish Child Holocaust Survivors. But today  
23 I'm also representing survivors from all over  
24 the country, grassroots, grassroots of the  
25 survivors, and not some selected individuals

1 that we have put forward in order to speak on  
2 behalf of the survivors when they actually were  
3 never elected.

4 Last year when I was here I stated we  
5 survivors are sick and tire of all the  
6 shenanigans and that is repeated in the  
7 newspapers all over.

8 I just came back from Chicago where I  
9 met with representatives of 14 survivor  
10 organizations in Florida, 12 survivor  
11 organizations in Chicago, a California  
12 association and a number of other associations,  
13 and I have forwarded their demands also to your  
14 Honor.

15 We also mentioned at that time that  
16 there were (unintelligible) with the permission  
17 of the Court, I would like to add authorization  
18 of the Chicago group. Would you please accept  
19 it.

20 (Handing)

21 MR. RECHTER: Thank you.

22 The feeling is almost unanimous all  
23 over the United States when it comes to  
24 (unintelligible) survivor organizations. They  
25 are angry, they are frustrated as you well

1 noticed over here, and they're frustrated mainly.  
2 because wounds were reopened, expectations were  
3 (unintelligible) and their expectations are not  
4 being fulfilled. Many told me we would have  
5 (unintelligible) that this would have never  
6 happened to begin with. We were never consult -  
7 the elected representatives of survivor  
8 organizations were never consulted and decisions  
9 were made by well-meaning people who thought  
10 that they knew better what was needed for the  
11 survivors.

12 I concur with Professor Newborne that  
13 there I not enough on the table. There's not  
14 enough to satisfy everybody who wants a chunk of  
15 that money. You have religious organizations.  
16 They might as well claim what about the  
17 (unintelligible) also eliminated. What about  
18 Yiddish newspapers, they also have a claim.  
19 There is not enough money.

20 Now, money for those causes should be  
21 raised in other matters. The money was raised  
22 for survivors and for survivors only, and only  
23 survivors should be entitled. And all the other  
24 causes, no matter how worthwhile, whether it be  
25 for monuments or for supporting destitute Jewish

1 individuals who are not survivors, should be  
2 taken care of with a large (unintelligible)  
3 organization like the UGA, who bragged about  
4 having received \$143 million last year and  
5 (unintelligible). Don't take it off the back of  
6 the survivors.

7 I was interview for the Shoaha Visual  
8 History Foundation, and I have interviewed many  
9 destitute survivors here in New York itself.  
10 There are people in Washington Heights and  
11 people in Brooklyn, even in Rego Park, some  
12 woman - one woman I remember she was on dialysis  
13 three times a week and the \$1,500 she was  
14 getting from the Claims Conference to the  
15 (unintelligible) organization is insufficient.  
16 We have plenty of destitute survivors here in  
17 the states and no money should be diverted from  
18 their pro rata share to other causes, no  
19 portions whatsoever.

20 I recall another case - and I'm trying  
21 to be very brief - of young French boy who  
22 learned how to make false I.D.'s and with a  
23 false I.D. and (unintelligible) to the Germans  
24 that sponsored another to get more -- more  
25 rations, and while he was in (unintelligible)

1 the Germans came in and he was blonde and was  
2 blue eyed and so they made him a poster boy and  
3 they put his picture all over Paris to show  
4 here, volunteer for this project. And of course  
5 when once his picture was posted, he was hunted  
6 by (unintelligible) with the Germans. He was  
7 reported by his former classmates. He was hunted  
8 like an animal. He had to eat garbage from all  
9 over.

10           And yet, according to the plan, with  
11 all due respect to Master Gribetz, he will not  
12 be entitled to anything, no looted assets are  
13 available practically in this category. And was  
14 not in a camp and he was not in the ghetto. And  
15 there are many cases like that. Of course, I  
16 cannot take all the time over here.

17           We have the greatest respect for Master  
18 Gribetz for his efforts and the efforts of his  
19 law firm. And as Mr. Roberts said at a previous  
20 occasion, even the law firm of Solomon  
21 (unintelligible) could not have solved the  
22 problem. But we have to let justice prevail to a  
23 certain extent. When you recognize the rights,  
24 and they should be recognized, of the depositors  
25 in the Swiss banks, you recognize the property

1 and rights of the very wealthy. Then you must  
2 recognize the property and rights of those that  
3 were only middle class. Those that lost only  
4 their apartments and only lost their businesses  
5 and only lost a few jewelry that they had, they  
6 should also some sort of compensation.

7           But you see, practically all the  
8 survivors we spoke to agree on one thing, that  
9 rather than the few measly dollars that they  
10 probably could get would have wanted to live out  
11 their life in dignity. They would have wanted to  
12 get some sort of help, catastrophic health care  
13 insurance in their declining years.

14           Many of those survivors retired some of  
15 them to Miami, husbands died, widows never  
16 expected to live as long as they did and now  
17 they're running out of money. They overestimated  
18 their financial resources. And we have needy  
19 cases all over the country, especially when it  
20 comes to health care.

21           When this idea was initially proposed  
22 to the people that negotiated on our behalf, the  
23 people that negotiated and said they knew better  
24 what was good for us, they said there is not  
25 enough money for that. And, yet, now we hear

1 that there might be money left over from all  
2 those administered. There might be hundreds of  
3 millions of dollars. There might be billions of  
4 dollars left over. All of sudden, there might be  
5 money for all kind of pet projects, but not  
6 enough to give dignity to survivors in their  
7 last final years.

8 All the organizations that we asked, as  
9 I said before, are resentful that they are not  
10 being represented directly, that organizations  
11 have been negotiating on their behalf which are  
12 not composed of elected representatives. And we  
13 are firmly opposed to any finite amount under  
14 the deposited asset class. I mean, you can  
15 understand a cap, but not a finite amount.  
16 Because if you have a finite amount, then there  
17 is the potential for residuals, and then there's  
18 already people lining up, organizations lining  
19 up all over that are trying to claim part or  
20 portions of those residuals.

21 Professor Newborne said that perhaps  
22 those residuals will then be allocated to the  
23 deposited - to the - sorry, to the looted asset  
24 class. That perhaps it's not good enough for us  
25 really. We, the elected survivors, really want



1 to have control over it. We want to see what is  
2 going on. We want to see how the monies are  
3 distributed. We want to see what is left over,  
4 and we want to make our own decisions of how the  
5 money should be applied.

6 We realize that there might be not  
7 enough, but we have seen many projects started  
8 with just \$20 or \$30 million and later on  
9 they've been building upon. If we have a  
10 project of that sort, then we know we might be  
11 able to attract (unintelligible) organizations  
12 to contribute to that. There's all kinds of  
13 (unintelligible) organizations that in the last  
14 - even in the last few months that recreated the  
15 accounting on additional money coming in, the  
16 same that should have been created for the  
17 survivors. First, you take care of the most  
18 needy, the most destitute for their health care  
19 and then build upon it until all of us survivors  
20 can live out their life in dignity and not have  
21 to face an uncertain future because there might  
22 white cloud for medical costs.

23 Thank you for listening.

24 THE COURT: Josh Konecky

25 MR. KONECKY: Good afternoon. My name

1 is Josh Konecky and I'm with Disability Rights  
2 Advocates in Oakland, California. We represent  
3 an international coalition of disability  
4 organizations and individuals with disabilities  
5 who have urged us to carry the message to this  
6 court that meaningful reparations from the  
7 settlement fund are imperative to begin enabling  
8 us to address the horrors that were inflicted  
9 against people with disabilities during the  
10 Holocaust.

11 All the unspeakable atrocities of the  
12 Holocaust were committed against people with  
13 disabilities as well. Looting, horrific medical  
14 experiments, 400,000 people with disabilities  
15 forcible sterilized with radiation or painful  
16 vasectomies without anesthesia, 275,000  
17 individuals with disabilities murdered in the  
18 official killing programs, and that doesn't  
19 include other atrocities occurring in forced  
20 labor camps, concentration camps or killings and  
21 sterilizations outside of Germany itself.

22 Yes, 50 years later the world is still  
23 generally silent and ignorant about the  
24 persecution of people with disabilities during  
25 the Holocaust. People with disabilities were

1 precluded from the compensation in the German  
2 courts, shut out of negotiations between the  
3 United States and German Governments. And to  
4 this day, not a single memorial or museum has  
5 been dedicated solely to the remembrance of  
6 individuals with disabilities during the  
7 Holocaust.

8           This tragic omission is particularly  
9 alarming to people with disabilities across the  
10 world because even today they face many of the  
11 same forms of discrimination and dehumanization  
12 that were the cause of the atrocities during  
13 the Holocaust. There's still mass segregation  
14 of people with disabilities, amazingly awful  
15 bias citizen falsehoods against them, poverty,  
16 unemployment and still widespread  
17 institutionalization.

18           So, your Honor, by insuring that these  
19 proceedings do not forget the persecution of  
20 people with disabilities during the Holocaust,  
21 this Court will make a long awaited and  
22 historical pronouncement that could transform  
23 the status of people with disabilities in Europe  
24 and beyond.

25           The international community of people

1 with disabilities asks this Court to reserve one  
2 percent of the settlement fund to establish a  
3 disability benefits fund. This is a quite  
4 modest proposal considering that people with  
5 disabilities are very likely the second victim  
6 group, the second largest victim group, and  
7 considering the gravity of the atrocities that  
8 they have suffered.

9           The disabilities benefit fund that we  
10 propose would be both symbolic, but it would  
11 also have far reaching practical benefits to  
12 helping bring justice to the disability  
13 community and those in the greatest need in the  
14 disability community. It would address directly  
15 the unacceptable conditions which still exist in  
16 eastern and central Europe and which are  
17 directly linked to what occurred during the  
18 Holocaust. It would be supervised by the Court,  
19 and it would it contribute to the empowerment of  
20 people with disabilities so we also can say,  
21 "Never again."

22           The proposal has the support of class  
23 counsel, Professor Burt Newborne and Morris  
24 Ratner and is simply in our view the right thing  
25 to do.

1 Thank you, your Honor.

2 THE COURT: Fira Stukelman.

3 MS. STUKELMAN: My name is Fira  
4 Stukelman, and I represent the Association of  
5 Holocaust Survivors from former Soviet Union.  
6 Our people -- they are present here  
7 (unintelligible) and they -- why we were the  
8 star because we don't have the members of  
9 (unintelligible). We were -- during in the war  
10 we were the star. All children, we belong not  
11 to the -- not to the concentrate camp. Most of  
12 us belong to the ghetto in the Ukraine and Bela-  
13 Russia.

14 In 1941 when the war begin, I saw today  
15 the Nazis who came to City Venyetza (phonetic)  
16 in the Ukraine in black suits with dogs. And my  
17 mother was pick up in the (unintelligible) and  
18 she was killed and I survived by myself. I was  
19 only eight years. I was (unintelligible). I  
20 live a year in the basement because nobody -- I  
21 couldn't be in -- during the day, nobody have to  
22 see me because I was be killed.

23 I will not say about my life. My life  
24 was so hard and strong. And not only about me.  
25 I want to talk today about all Holocaust

1 survivors who had the hard life during in the  
2 war, who was guide in the wood, who children who  
3 was working together with older people. They  
4 work together. It wasn't different between age.  
5 We survive and every day it was why, questions,  
6 why to us, why to me, why it coming to us. We  
7 children. We didn't understand. We are Jewish.  
8 Why? And today we are here.

9           After the war in 1945 it wasn't for us  
10 then of the war because we lived in communist  
11 country. We was -- our life was very strong and  
12 hard. We was persecute by Russian communists  
13 and Ukraine Nazis and we couldn't have this  
14 opportunity to go to Israel or to America before  
15 1989. We are late today in this country. Most  
16 of our people we have an (unintelligible)  
17 thousand Holocaust survivors. And these people  
18 who survive and live today, our life very hard.  
19 Why? Because we are poor, receive only \$600 in  
20 a months. We appreciate America for this, only  
21 it's hard for us. We pay this money in more  
22 than \$600 for our rent. We cannot afford this.  
23 This money, what we receive \$200 in a months  
24 from Germany we pay for our bills. Where we  
25 have money for food? Only a hundred food

1 stamps. And this money we try to survive, to  
2 eat, to spend for our food.

3           What's go on today? Our people old.  
4 They are sick. They cannot buy some medicine.  
5 They cannot afford their rent. They need help.  
6 Could you believe that it was in two months ago  
7 it was in Seattle Holocaust Survival Conference.  
8 We cannot go because you don't have money to pay  
9 to go for the conference.

10           Last year, four people was present in  
11 Washington in conference. We were the second  
12 class. Why? Because we couldn't afford this  
13 conference. We couldn't pay \$650. All people  
14 left for dinner, we stay in the room. What we  
15 eat, sandwich. Why we have to be the second  
16 class. We deserve to be like all Holocaust  
17 survivors. Our decision, all our people, money  
18 belong only to the Holocaust survivors.  
19 Everyday people died. Every day we left -- we  
20 leave our people.

21           Please, your Honor, take decision for  
22 Holocaust survivors. If we survive we need this  
23 help. This money will never make us happy,  
24 never. The justice have to be. Thank you.

25           THE COURT: Yakov Poleshuck.

1 THE CLERK: May we have the Russian  
2 interpreter, please.

3 MR. POLESHUCK: Honorable Judge, ladies  
4 and gentlemen. My name is Poleshuck, Yakov. I'm  
5 a survivor of the concentration camp, and over  
6 there I lived under a different identity. I had  
7 a different name and I had a different  
8 nationality.

9 It is written in this document that  
10 people have to remember everybody who perished  
11 in concentration camps. And those certify that  
12 any forms of (unintelligible) in different  
13 corners of the whole world. And now a very  
14 important questions are trying to be settled and  
15 these are about the money which are now in  
16 Switzerland banks. And this money belong to  
17 people who were killed during the Second World  
18 War. They were killed by German fascists.

19 And though these events took place on  
20 occupied territory of partially Europe,  
21 Bela-Russia and Ukraine. On occupied  
22 territories innocent children were killed also  
23 innocent old aged people and women in places  
24 like Biberya (phonetic) and everything was done  
25 by fascists and people who assisted them.



1           Four million Jews perished or were  
2 killed in concentration camps of Majdanek,  
3 Kaswenson (phonetic), Treblinka. And the  
4 fascists before sending people to gas chambers  
5 they looted everything which people had, their  
6 personal assets and belongings and everything  
7 they had.

8           Six million Jews died during the Second  
9 World War. That's how Hitler and people who  
10 worked for him tried to settle the Jewish  
11 question.

12           On occupied territories of former  
13 Soviet Union fascists looted everything, looted  
14 treasures and other valuable things, stuff,  
15 before sending people to gas chambers.

16           I didn't hear it from somebody. I was  
17 a witness myself how people were killed in  
18 concentration camps. In Birkenau, Dachau,  
19 Bergen-Belsen, Mauthausen, Nordheimer (phonetic)  
20 Ravensbruck and other camps of death. People  
21 over there died because of hard slave labor and  
22 also because different experiments were carried  
23 out on them. I was 18 years old when after one  
24 of the meetings with people who were in charge,  
25 they beat me up, they battered me, they

1 assaulted me, and then after that I was thrown  
2 to a concentration camp of Dachau.

3           On my head they cut out a sign and that  
4 was a sign which made me a part of the  
5 concentration camp. They gave me a number. The  
6 number was 59998. And from that time I stopped  
7 being a human being; I was just a number.  
8 Anybody could kill me, could assault me, could  
9 beat me up and just destroy me.

10           And I was at one of the military  
11 factories of Germany and a group of people from  
12 SS they guarding us. People weighed 35, 36  
13 kilograms. And that camp was surrounded by a  
14 wire and in that wire there was an electrical  
15 current. That camp was liberated by American  
16 and other troops in 1945, May 5. And then I  
17 went to the east.

18           Then I found myself in Vienna, and then  
19 they shipped me back to my mother land. And  
20 then I worked at the miners of Donbass. That  
21 means that I got from one concentration camp  
22 into another one. And for two years I worked  
23 under the ground in the mines of Donbass.  
24 That's how our motherland aware that  
25 (unintelligible). We were treated like animals

1 there. We were considered to be animals there.

2 Every person who survived Holocaust has  
3 a life of his own and our fortune was to  
4 survive.

5 Dear Judge, we Holocaust survivors ask  
6 you sincerely just to figure out those numbers.  
7 Currently, the rent is very expensive and also  
8 we're in a bad health (unintelligible). We hope  
9 in your justice and in your sincerity.

10 Thank you for your attention.

11 THE COURT: Rabbi Chaiem Stauber.

12 RABBI STAUBER: Your Honor, thank you  
13 for allowing me to address you, this Court, in  
14 the name of Nepesh Ahor, an organization  
15 dedicated to address some of the most urgent and  
16 unmet needs of Holocaust survivors.

17 The crucial issue of the day at these  
18 hearings is to find a fair and just way for the  
19 distribution of the Swiss banks settlement  
20 funds.

21 Your Honor, I will be brief with my  
22 remarks, and written statement has already been  
23 submitted. But I think it is appropriate at this  
24 time to offer a prayer that your Honor be  
25 bestowed with heavenly wisdom to speedy conclude

1 the process with an equitable distribution plan.  
2 I pray that our merciful father, the ultimate  
3 judge of all mankind, guide this court to do the  
4 right thing for all and particularly for the  
5 frail, elderly survivors who are distraught and  
6 anguished to properly appreciate what you're all  
7 doing for them.

8           May all might God repay you all for  
9 your kindness.

10           Your Honor, we all know the saying,  
11 "Justice delayed is justice denied." In this  
12 case, however, the longer it takes to help the  
13 frail, elderly survivors, it's not just an  
14 axiom, but unfortunately a sad reality.

15           The plan of the special master,  
16 Mr. Judah Gribetz, who we all admire and thank  
17 for his tireless efforts, calls for setting  
18 aside the bulk of the money to satisfy any and  
19 all claims by the first class; namely, the  
20 banking depositors of their legitimate heirs.  
21 This, however, as we all know will take still  
22 more time to sort out the lists of tens of  
23 thousands of names. Many impoverished survivors  
24 of the worst calamity known to mankind must not  
25 be allowed to struggle anymore waiting years to

1 survive with their daily living.

2           Nepesh Ahor has the names right here  
3 and some pictures and some personal data of  
4 scores of lonely survivors who are destitute and  
5 will be happy to turn their names over to the  
6 Court, your Honor, that desperately need being  
7 placed in an assist of living facility as we  
8 have described in fuller detail in our written  
9 statement.

10           We believe that overworked with  
11 Holocaust survivors deserve the Court's kind  
12 consideration, including, of course, of our own  
13 Nepesh Ahor. Yet, we believe the highest  
14 priority and the Court's most urgent attention  
15 must be given to helping those individual, frail  
16 survivors whose needs for assistance with their  
17 daily lives cannot be put off any longer. By  
18 the Court's kind consideration of the  
19 humanitarian side and all the respect of  
20 Professor Burt Newborne, I don't think that  
21 justice and humanitarian causes cannot go hand  
22 in hand. I think the humanitarian side of the  
23 truly, needy elderly survivors first and  
24 foremost can helps the cause of elderly,  
25 impoverished survivors who can, in fact, be

1 accommodated almost immediately to better their  
2 lives a lot and by paying or subsidizing the  
3 cost to move in to assisted living. We're  
4 talking about the most frail who cannot make it  
5 on their own.

6           Some of this population who currently  
7 live alone are either too weak - and they were  
8 too weak to be here - so grief stricken from  
9 losing a spouse that they cannot even go out of  
10 the house to buy food or to cash their Social  
11 Security and SSI check, and there is very little  
12 a case manager or social worker can do to  
13 ameliorate their problem. As a result, a  
14 special collaborative effort has been undertaken  
15 by Nepesh Ahor with a reputable state-of-the-art  
16 assisted living housing complex in Brooklyn,  
17 named (unintelligible) of Midwood in the heart  
18 of Brooklyn.

19           The frail survivors in whose name we  
20 speak are financially poor and physically frail,  
21 yet not sick enough to qualify for a skilled  
22 nursing facility nor poor enough to be eligible  
23 for Medicaid. We kindly request an allocation  
24 from the settlement fund to address this urgent,  
25 humanitarian need immediately.

1           In our written statement, your Honor,  
2 we proposed the Court the setting up of a fund  
3 in the sum of \$60 million. Some have said the  
4 amount should be at least double that. However,  
5 we respectfully submit to the Court on behalf of  
6 the neediest of the Holocaust survivors - I'll  
7 be finished in a minute - to allocate  
8 expeditiously without any further delay any sum  
9 the Court deems reasonable to be paid out  
10 directly to the frail elderly individual  
11 survivors or the legal representatives whose  
12 financially need has been fully verified coupled  
13 with a stipulation that the money be used  
14 exclusively to defray the cost for assisted  
15 living.

16           By so doing, your Honor, this Court  
17 will prove to any and all detractors that this  
18 entire process was permeated by a sincere desire  
19 to help the survivors on truly humanitarian  
20 grounds. It may also be the impetus for similar  
21 allocations by governmental organs and agencies  
22 to assure basic assisted living needs for all  
23 needy, frail Holocaust survivors. Thus, the  
24 Court's favorable disposition towards this  
25 urgent request with its immediate allocation of

1 such funds may be the catalyst to ensure that  
2 these who have suffered so much in their  
3 lifetime will suffer no more.

4 Thank you and God bless you all.

5 THE COURT: John Nikles.

6 MR. NIKLES: The documented history of  
7 the century's old persecution of Romani people  
8 is a sad and painful one for many of the general  
9 public. Romani is the proper term for it, but  
10 much more commonly known as "gypsies" or Seghani  
11 (phonetic).

12 The centuries of slavery, brutality,  
13 oppressive laws and people degrees calling for  
14 the merciless treatment of Roma has produced an  
15 ingrained and acceptable patter of  
16 discrimination against my people in the present  
17 day which excludes us even from the simplest  
18 forms of recognition.

19 Our greatest tragedy was that over one  
20 million Romanis were murdered by the Nazis. The  
21 fact that no mention of this was ever made on  
22 their behalf during the numerous cases examined  
23 at the Nuremberg trials is a glaring example of  
24 the lack of recognition I refer to.

25 What is equally incredible is that



1 after the war, our government here in the United  
2 States distributed \$100 million as an emergency  
3 relief fund for Holocaust survivors, but left  
4 Romanis in the camps, unacknowledged without so  
5 much as a dollar's worth of bread. Those in  
6 charge of that fund new that Romanis were  
7 victims of the Holocaust. The decision at that  
8 time not to exceed assistance could only have  
9 been a deliberate one. I'm hoping that history  
10 will record that this Court marked the turning  
11 point of those previous injustices.

12 I respectfully come before the Court,  
13 your Honor, to attempt to provide some knowledge  
14 of the Romanis people's plight. It is apparent  
15 by the special master's proposed plan, which  
16 virtually ignores Romani rights and claims and  
17 at best is only a token of their actual loss of  
18 life and assets, those being looted assets  
19 primarily gold coins, jewelry, teeth, which was  
20 melted in bullion and deposited in a Swiss bank.

21 It appears the special master has  
22 fallen short of the great honor bestowed up him  
23 to produce an equitable distribution plan. He  
24 has systematically ignored the input we  
25 attempted to place before him, and his actions

1 have occasionally been insensitive and racially.  
2 discriminating. The circumstances that alleged  
3 representatives of the Romanis have come to hold  
4 positions on lawyers committees, coupled with  
5 the favored attention he has given to them,  
6 makes it difficult to understand to us the vast  
7 majority of Romanis who find those proposals  
8 totally foreign to what they believe is in the  
9 best interest of the Romani race.

10 Over a half a century ago, the Nazis  
11 targeted Jews and Romanis for precisely the same  
12 reason: both are people who were classified as  
13 non-Arian and thus targeted for extermination.  
14 There was a final solution of the gypsy  
15 question, just as there was a final solution of  
16 the Jewish question. Only Jews and Romanis were  
17 murdered in the gas chambers. To be practically  
18 dismissed by Mr. Gribetz, the special master,  
19 and assigned to the category of "others," only  
20 gives support to the myth with perpetuates our  
21 exclusion from a fair consideration for our  
22 suffering.

23 THE COURT: Well, that's not true.  
24 That's not true. No one is precluded from -  
25 every victim of Nazi persecution, whether

1 they're Jews or Romani as they're defined in the  
2 agreement could apply for deposited assets.  
3 They're eligible for the slave labor  
4 distribution.

5 MR. NIKLES: I may be incorrect, your  
6 Honor, but I think we're classified under  
7 "others."

8 THE COURT: They're the potential  
9 beneficiary of the cypres distribution for  
10 looted assets. It's simply not so that they're  
11 not being treated equally. In fact, as you  
12 yourself acknowledges it's probably the first  
13 proceeding in which their plight has been  
14 recognized.

15 MR. NIKLES: That is absolutely correct.

16 THE COURT: And I bent over backwards  
17 including putting a representative of the  
18 Romanis on the plaintiff's executive committee.  
19 Now, I can't help it if there is no unity in the  
20 Romani community and one says that the other  
21 doesn't represent me. But to suggest that the  
22 special master's report is racist or to suggest  
23 that the Romanis are not being treated equally  
24 is simply a remark that I can't let pass.

25 MR. NIKLES: However, your Honor, I sent

1 you a detailed letter explaining how that  
2 committee was formed.

3 THE COURT: I understand, but there are  
4 detailed letters - there's a letter that I got  
5 today faxed to me on Friday from another Romani  
6 group saying that you don't represent them. So,  
7 I mean, -

8 MR. NIKLES: Well -

9 THE COURT: Look, -

10 MR. NIKLES: I make no argument that the  
11 Romani are a weak and fractionalized people.

12 THE COURT: As you could see from  
13 sitting here, the Jewish community isn't exactly  
14 united either, but that's a different story from  
15 some of the more inflammatory charges that  
16 you've made here.

17 MR. NIKLES: I'm not a lawyer, but if we  
18 are classified as a race like the Jewish race  
19 is, then I stand corrected. But I believe we're  
20 in the category of Jehovah's Witnesses,  
21 homosexuals and disabled.

22 THE COURT: Everybody can apply, every  
23 member of those groups as Jews can apply for  
24 benefits in every category. They could make  
25 claims if they had bank accounts in Swiss banks.

1 They could apply for slave labor distribution as  
2 it's provided for in the allocation. They're  
3 provided for in the cypres, in terms of looted  
4 assets. And if they were excluded from  
5 Switzerland, they could apply for benefits as  
6 refugees.

7 It's simply not true that there's any  
8 form of discrimination.

9 MR. NIKLES: Well, maybe my referral of  
10 discrimination was not exactly what I was trying  
11 to express.

12 A suffering which did not end with the  
13 Holocaust as it dramatically did for our Jewish  
14 brothers and sisters. Even a cursory  
15 examination of the respective conditions of our  
16 two peoples in the world today makes that  
17 abundantly clear.

18 THE COURT: Well, again, you keep  
19 pitting one against the other. You could argue,  
20 and I think it's documented in the special  
21 master's report, that survivors of the Holocaust  
22 who lived in eastern Europe, the horror didn't  
23 end for them. They suffered twice; first, under  
24 the Nazis and then under the communists and  
25 without any form of restitution.

1           So I just don't think it's useful to  
2 get involved into a kind of who suffered more.  
3 Everybody suffered; they suffered unjustly. But  
4 we're involved in the settlement here of a  
5 lawsuit that is designed to compensate people in  
6 some way or another for acts that have some  
7 relationship to Swiss defendants. It's not to  
8 rectify all of the injustices that occurred  
9 during that period of time, and ultimate  
10 distribution has to bear a significant  
11 relationship to the underlying basis for this  
12 lawsuit.

13           Go ahead.

14           MR. NIKLES: I understand what  
15 you're -

16           THE COURT: I mean I try not to  
17 interrupt because I think everybody -

18           MR. NIKLES: I understand.

19           THE COURT: - everybody wants to speak,  
20 but there are times when I just have to. But,  
21 go ahead.

22           MR. NIKLES: But your Honor I need to  
23 explain one thing to you. I'm not an attorney.  
24 I'm not trying to present a legal case to you  
25 here. I'm trying to present to you a situation

1 where I'm a Romani who's been actively concerned  
2 about my people's plight for many, many years.  
3 This is one of the first opportunities in  
4 history for us to get justice. And I come here  
5 in the hopes that I believe in this country that  
6 I love very much that the pinnacle of justice is  
7 in the United States. And I come to plead  
8 before you for my people who have been totally  
9 ignored by this government, the Nazi government  
10 and every other government for many, many  
11 centuries.

12           Hopefully, you will take some of these  
13 things in consideration and understand the  
14 different circumstances of Romanis versus the  
15 other. I make no say that we suffered more.  
16 That's not important to me. Everybody suffered  
17 hideously during the Holocaust. I don't attempt  
18 to say that the Romani suffered more. What I  
19 attempt to portray to you is that the suffering  
20 of the Romanis has been ignored, totally  
21 ignored.

22           THE COURT: I understand that, but -

23           MR. NIKLES: And I think it's been  
24 ignored by the special master, and that's my  
25 opinion. I could be wrong, but that's the

1 impression I get from the actions - interactions  
2 with him that I've had.

3           Although our pleas for fair and  
4 reasonable consideration are justifiable, we do  
5 not wish to cause other claimants any delay or  
6 inconvenience. We're asking that 20 percent of  
7 the total settlement be set aside for Romani  
8 claims and the remainder be free to distribute  
9 at the Court's discretion.

10           If we cannot prove our claim to the  
11 Court's satisfaction, then whatever funds is  
12 agreed upon can go back to the original pool.  
13 Today for the first time in our history, we have  
14 a Romani leader who has earned the recognition  
15 of his people and the acceptance of governments  
16 all over the world. He has the ability to pull  
17 together the Romani activists and organizations  
18 into a working group to address the need of  
19 Holocaust survivors and even more importantly to  
20 create and implement programs that will unite  
21 and protect a people who are desperately in need  
22 of this leadership. Dr. Hancock does not have  
23 the resources to begin this goal today. But if  
24 the Court grants our plea, I believe that a true  
25 and fair justice will be achieved.



1           In conclusion, may I say that I am  
2 honored by the privilege I have today to present  
3 this plea and to appear with the Honorable  
4 Ramsey Clark who has graciously joined our  
5 efforts to be heard. In 1964, he had the  
6 compassion and foresight to include Romanis when  
7 he authored the Civil Rights Act, a gesture that  
8 has produced many positive effects for our  
9 people. I'm hoping that today represents  
10 another milestone in our history by giving your  
11 Honor - giving serious consideration to Dr.  
12 Hancock's vision for bringing his people out of  
13 the dark ages.

14           Thank you, sir.

15           THE COURT: Kamilla -

16           VOICE: I just want to say one word.  
17 Why the Holocaust survivors receive \$500  
18 (unintelligible) organizations and have  
19 (unintelligible). The Romanis and gentleman have  
20 received over \$1,400, so they have  
21 (unintelligible).

22           THE COURT: Ms. Kamilla Prigova.

23           MS. PRIGOVA: Your Honor, I am speaking  
24 of American Association of Veterans and Invalids  
25 of World War II of the former Soviet Union who

1 has no voice at that moment except for right  
2 own.

3           Our association counts more than 3,000  
4 members, the youngest of them are 72 and the  
5 oldest are over 90. All of them can related to  
6 the D category because the Nazis looted their  
7 assets illegally and they had never received any  
8 compensation. They left their homes, their  
9 assets and they fled in the face of death. The  
10 majority of the veterans was called up to the  
11 army and their families, woman, old parents and  
12 children were evacuated or killed.

13           While fleeing they could not even think  
14 about the documents and estimated monetary value  
15 of the assets they left. They were thinking  
16 only about the life of their children and their  
17 own. Many of the present heirs were little  
18 children at that time.

19           How was it possible for them to  
20 estimate the monetary value?

21           In many cases, those little children  
22 are the only descendants of the perished. The  
23 veterans who survived in the war are old, frail  
24 and sick people now. They need help especially  
25 in the (unintelligible) of the former Soviet

1 Union.

2           We ask you to pay special attention to  
3 those people who can't prove their claims by  
4 documents and eyewitness. And we also ask you  
5 not to deprive the rest of the people belonging  
6 to this category. Their right to receive  
7 compensation. Their wrote their preliminary  
8 claims in the Swiss banks, even if they have no  
9 substantial documents and they were ask. They  
10 spent money for filling out this applications  
11 because they could not do it without  
12 professional assistance.

13           We ask you to take our opinion into  
14 consideration when adopting the Judah Gribetz  
15 plan and give the hundreds of thousands of Jews  
16 their right to present their claims and  
17 participate in this plan. As we understand it  
18 is possible to save great sum of money  
19 (unintelligible) do some kinds of hard and  
20 important job. The rest of the sum can be  
21 distributed fairly in little parts between all  
22 the people who lost their property in this war.

23           I wish you not only to listen to me,  
24 but to hear me. I want my words to reach your  
25 heart and to help these old, poor people who

1 have not left much time for them and need your  
2 help. Well, they have no time to wait. They  
3 didn't receive any compensation because some  
4 compensation which was given was given for moral  
5 and physical sufferings and for looting assets,  
6 they didn't receive anything.

7           And the (unintelligible) God bless you  
8 in this difficult job, but do it fairly.

9           Thank you, very much.

10          THE COURT: Eliazar Bloshteyn.

11          MR. BLOSHTEYN: Honorable Judge Mr.  
12 Korman, Honorable Special Master Judah Gribetz,  
13 I (unintelligible) for your hard and very  
14 important job.

15                My name is Eliazar Bloshteyn. I came  
16 from Ukraine from City Odessa. I'm a Ukranian  
17 Jew. My grandfather and grandmother were died  
18 from hunger. My uncle and my aunt were shot in  
19 Odessa. And I live here in America it is not my  
20 fault.

21                I hear a lot of opinions of Jews. They  
22 are very different and I know that you cannot do  
23 everything because you are not Jesus Christ.  
24 You are only a Judge.

25                How many peoples, so many opinions.

1 But I think as you are a Judge, you have to  
2 decide a legal decision. In my opinion all Jews  
3 who suffered, who died, who live right now who  
4 haven't their property, former property, they  
5 are right, all peoples, all Jewish people, all  
6 Romania because they were person persecuted by  
7 German, Austrian, Romanian fascists.

8 VOICE: Ukrainians.

9 MR. BLOSHTEYN: Yes, true.

10 And I think that our right is equal.  
11 And I understand that \$1 million for only \$500  
12 is so little that you cannot give everybody. I  
13 understand. But I think that it is a mistake,  
14 Mr. Gribetz - your mistake, excuse me - that you  
15 give us a chance to plea to give you our  
16 documents about our property.

17 We submit that this proposal is not  
18 only inhumanate (sic) and discriminatory but  
19 also legally unsound an effort to prevent the  
20 Court from allowing this unprecedented legal  
21 mistake and to avoid an appeal by newly robbed  
22 Jews at the highest official levels.

23 We propose a choice that all that who  
24 can't provide documents or eyewitness testimony  
25 to control their claims without exception be

1 allowed to participate in this suit, including  
2 jews of the former USSR, regardless of whether or  
3 not they appear to have been prisoners of the  
4 ghetto and witnesses are participants in the  
5 war. One minute.

6 THE COURT: Go ahead.

7 MR. BLOSHTEYN: The principle of the  
8 commentary (sic) evidence and eyewitness  
9 testimony should be applied by the judge  
10 throughout the examination of the claims of all  
11 four categories: A, B, C, D. All participants  
12 in the collective action to retrace the past of  
13 one's property directly through the Swiss banks  
14 and not the German banks as Mr. Judah Gribetz  
15 suggested will be near impossible not only for  
16 the (unintelligible), but also for the prisoners  
17 of the ghetto and the slave labors Categories B  
18 and C. That in the interest of sensible  
19 allocation (sic) of the limited sum which in the  
20 fund those who have the culmentary evidence  
21 supporting their right to share in the Swiss  
22 Bank deposits receive compensation without it's  
23 tenth (sic) hold increase, without this increase  
24 for inflation. Inflation has not effected by the  
25 Swiss Bank deposit over 60 years interest has

1 also grown on the durations for stolen property.  
2 That the Jewish Immigrant Community Organization  
3 representing jews from former USSR, Eastern  
4 European jews in (unintelligible) of the second  
5 world war, prisoners of the ghettos and  
6 concentration camp, et cetera. And not only the  
7 giant and claims conference be granted control  
8 over the distribution of the funds.

9           That the judge recommended to all  
10 lawyers in the collective suit for the most part  
11 jews, that is a voluntary mistake -- excuse me,  
12 -- mitzvah (sic). They refuse their  
13 22-and-half-million dollars fee in order to lift  
14 the burden from this elderly, poor and sick jews  
15 provided they have produced evidence to justify  
16 their claims.

17           In the interest of saving a  
18 considerable amount of money that after the  
19 distribution of compensation to all legitimate  
20 claims claimants the remain of fund settlement  
21 be distributed in equal parts, in equal parts,  
22 no matter what their size, no matter --

23           THE COURT: No matter.

24           MR. BLOSHTEYN: No matter, excuse me.

25           THE COURT: Even a dollar a person?

1 MR. BLOSHTEYN: Okay. But I want that  
 2 you write me that I receive one dollar for the  
 3 property of my grandfather, of my grandmother,  
 4 of my father -- excuse me, this is my opinion.

5 THE COURT: I understand, I'm listening.

6 MR. BLOSHTEYN: We ask that preceding  
 7 propositions be added to our case file. And our  
 8 opinions was published in most Russian  
 9 newspapers in New York. I have to translate my  
 10 opinion in English, excuse me for my little  
 11 English. And I receive a letter from Israelian  
 12 jews who live now in Israel, they cannot come to  
 13 you because she is blind, she is 82 years old  
 14 and she ask you to --

15 THE COURT: I'll consider it, I'll  
 16 consider it, just hand it up.

17 MR. BLOSHTEYN: Consider, yes.

18 THE COURT: Thank you very much.

19 MR. BLOSHTEYN: Thank you very much.

20 THE CLERK: You left your glasses here.

21 MR. BLOSHTEYN: Excuse me - thank you.

22 THE COURT: Adam Smith.

23 THE CLERK: May we have a Polish  
 24 interpreter, please.

25 MR. SCHMYT: Good morning, your Honor,



1 good morning everybody.

2 I arrived from the Polish city  
3 Auschwitz, Oswiecim. I representing Romanique  
4 group from Poland. I also apologize that  
5 Mr. Roman Kratkowski (phonetic) was not able to  
6 come.

7 I would like to remind you about the  
8 history of our Rome ethnic group during the  
9 second world war.

10 The Bill signed on December 16, 1937 by  
11 Mr. Heimlich Helmer talking about total  
12 extermination of the Rome nationality. During  
13 the second world war more than 50 percent of  
14 Romani ethnic group was exterminated; children,  
15 women, elderly people in ghettos, concentration  
16 camps, prisons, shot in the woods. Roma nation  
17 who are mainly wanders but they had also had  
18 their earthly possessions. At the time when the  
19 Nazi army was meeting them underways, usually  
20 they were shot in the spot and their possessions  
21 confiscated. I believe that this is the kind of  
22 historic occasion to put down a history of our  
23 Romani nation and to memorize the history of our  
24 nation.

25 Fifty-five years has passed since the

1 World War II, but very few people know what was  
2 the real story of Romani nation during the  
3 second world war. They were dying just because  
4 they were Romani, the same like jews.

5 Because of that, Judge Korman, we ask  
6 you to increase the funds to be provided for  
7 that group.

8 I'd like to tell you the story of my  
9 father. The concentration camp number 150321.  
10 He only survived because he was not included in  
11 the Romani group but he saw to the razor wire  
12 (sic) when in August 2, 1944, almost entire  
13 population of Romani nation was being sent to  
14 gas chambers because he had his sign with letter  
15 "P."

16 Judge Korman, Mr. Gribetz, we are  
17 asking you to increase our funds allotment from  
18 10 to 20 percent.

19 Thank you very much.

20 A VOICE: I wonder whether I could have  
21 a few moments. I have to read --

22 THE COURT: You have to sign-up. If I  
23 have time at the end of the day I'll --

24 A VOICE: I'm on the list.

25 THE COURT: Oh, you're on the list.

1 All right. Next is Vincent Gerardi.

2 MR.GERARDI: Good afternoon,  
3 Judge Korman, Special Master Gribetz, Learned  
4 counsel and survivors. I'm here on behalf of the  
5 estate of Nathan Katz.

6 I'm here today to object to the special  
7 master's plan of allocation as it relates to  
8 looted asset -- deluded assets class and  
9 especially as it relates to the looted fine  
10 artworks.

11 The special master has proposed to  
12 invoke the principle of cypres in allocating the  
13 funds to be appropriated for the looted assets  
14 class. Because of the difficulty and expense of  
15 establishing a link for each survivor's and  
16 claimant's stolen assets.

17 My clients have within the last few  
18 weeks uncovered secret classified documents in  
19 the federal archives in Washington, which they  
20 have succeeded in having declassified that show  
21 a direct link between the passage of valuable  
22 fine art from my client's family through  
23 Switzerland and then into the hands of the  
24 Nazis.

25 Based upon this newly discovered

1 evidence we would ask this Court and the special  
2 master to fashion a looted assets claim process  
3 within the allocation plan. To not allow my  
4 clients to present evidence that has remained  
5 hidden and under an official veil of secrecy and  
6 confidentiality would be to continue an already  
7 longstanding injustice. As this Court is  
8 well-aware the principle of cypres is an  
9 equitable concept which will be invoked only  
10 when the purpose for which a fund was  
11 established cannot be carried out.

12           In my client's case the federal  
13 government has retained documents in secret  
14 which will prove my client's claim if this Court  
15 will make a provision for their claim to be  
16 processed. To exercise the doctrine of cypres in  
17 my client's case would be to use an equitable  
18 principle to achieve an inequitable result.

19           I respectfully submit to this Court  
20 that it has the golden opportunity to start this  
21 century righting the wrongs of the last century.  
22 And I would like to thank learned counsel,  
23 Judge Korman and Special Master Gribetz for the  
24 herculean task that they've undertaken in this  
25 case.

1 Thank you very much.

2 THE COURT: By the way, you should talk  
3 to Mr. Newbaum, there may be a system set up in  
4 the German Foundation case where your particular  
5 claim can be addressed.

6 MR.GERARDI: Thank you very much,  
7 your Honor.

8 THE COURT: Talk to him afterwards.

9 MR.GERARDI: Sure. Thank you,  
10 your Honor.

11 THE COURT: David Tannenbaum.

12 MR.TANNENBAUM: Your Honor, first I want to  
13 thank you for giving me opportunity to really to  
14 stand before high tribunal (unintelligible).

15 I was prosecuted (sic) since I was a  
16 child but I never had opportunity in court of  
17 justice. And all hearing all this spectacular  
18 which I can -- Judge, I have never heard anybody  
19 mention anything about those which they laid on  
20 the ground dying and they ask us next "don't  
21 forget if you survive, don't forget us."

22 I've been in an instant -- I speak for  
23 them because it's the first time which I stood  
24 in front of a military tribunal which I caught  
25 the perpetrator which executed people the day

1 after we were already liberated somehow. And I  
2 happened to be lucky enough to catch this guy  
3 and he was -- he was hanged, tried and hanged,  
4 according to my -- the reason what I want to say  
5 is according to me we are denying the Holocaust  
6 and we are paying those perpetrators and those  
7 killers.

8 I was just past February gave a  
9 deposition in a German consulate for a guy which  
10 I know which he was caught, tried and he  
11 receives -- he applied for restitution because  
12 he claimed that he was forced to do the killing.  
13 I happen to know those instances. Here is from  
14 the US Justice Department to give deposition on  
15 another guy which I know personally, which I had  
16 incident with in the camp.

17 Everybody's talking about money. I'm  
18 not here to ask for more or less, I just want a  
19 little bit justice, justice for the survivors  
20 and for those which they died or the Holocaust  
21 -- there was no Holocaust for no other  
22 nationality but for the jews. There was no final  
23 solution for nobody but the jews. We couldn't  
24 even -- even in a concentration camp that I was  
25 at the last camp, I was in a cage behind

1 bobbed-wires in a barrack because I was Jewish.  
2 And we know because this is what we have to  
3 have, plus the number, the yellow stripe. I was  
4 behind we didn't have enough room to sleep. We  
5 slept like the chickens sitting down.

6       So where is a little bit justice to get  
7 these people for the survivors, everybody for  
8 organizations the survivors, which they are, we  
9 were given the last struck before in the  
10 eleventh hour, the last blow, and that's what  
11 I'm here for to see that if there is anything to  
12 do, your Honor, whoever decided all this here to  
13 a little bit more justice. And whenever I sat in  
14 a cage, I was in a cage. I was ten years old.  
15 The reason in which I know that's  
16 (unintelligible) because I happen to be working  
17 for a guy, for a big official in the security  
18 department in an airplane plant. I worked in a  
19 plant at that time that I was making the  
20 (unintelligible) which they fought our planes.

21       But anyway, this is what I wanted to  
22 bring out that all the people -- everybody knows  
23 that the Holocaust like it was a spectacle,  
24 there was a Holocaust, we know that, everything  
25 was taken away from us. I was ten years old, I

1 was chased out of my house with my family and I  
2 never saw it again. I came back to Poland to my  
3 house and I still found a few relics which I was  
4 really like to play with as a kid, I had to pay  
5 for it to get it back.

6 As a matter of fact, I show it to you,  
7 your Honor, and I show it to the Court when I  
8 was here last year. I found it and I had to pay  
9 for it, my name was engraved, my father and my  
10 mother's name -- to given to them by their  
11 wedding anniversary -- I mean, to --  
12 (unintelligible) they call it and their wedding.

13 So this is what I wanted to express.  
14 And I wanted the people to know, we talking  
15 about a Holocaust like nothing happened. We hold  
16 all kinds of stories. The Holocaust happened and  
17 the final solution was for the Jewish people.  
18 And that's what happened, that was taken away  
19 until this day.

20 THE COURT: Thank you very much.

21 MR. TANNENBAUM: Thank you for  
22 listening.

23 THE COURT: Nathan Sobel.

24 MR. SOBEL: Honorable Judge Korman,  
25 Honorable Master Gribetz, present survivors and



1. guests. I stand here before you as Holocaust  
2 child survivor. The sole survivor of 50 some-odd  
3 people. Then they killed my mother and brother,  
4 there was the last killing, the last  
5 (unintelligible) blow was just before the end of  
6 the war in 1944. And it was a burning house, and  
7 I was burning in it and I jumped out and they  
8 ran and chased me after that. And I survived in  
9 spite of everything else.

10           Since then all survivors, especially  
11 the child survivors have been a mental  
12 miserable, physical mess, in our body, in our  
13 souls, in our living. Go ask our wives, go ask  
14 our children. You'll come to one of our meetings  
15 you'll hear the stories, that's all the years  
16 the stories. It's 55 years later after the war  
17 we are a total mental mess.

18           And now at the dusk of our life what we  
19 are asking is not for good, you're not going to  
20 change our life, you're not going to change our  
21 mode of living. What we ask is just for a little  
22 dignified respect of having maybe a dignified  
23 health plan for survivors. Two years ago I was  
24 for a trip in Europe and I took sick all of  
25 sudden, artro-fibulation (sic), a heart attack,

1 in the few days \$10,000 cash I have to pay out  
2 and I've been in physical ill health since then.  
3 And we cannot cope with all this. Why couldn't  
4 we have pooled the couple of dollars which will  
5 not change our lives, just into a plan that we  
6 should be able to live in dignity for the couple  
7 of years that we got left. Some kind of  
8 (unintelligible) plan. I don't want no good, I  
9 don't want no nothing.

10 My father was a master mechanic, he had  
11 machines and motors and equipment, he was the  
12 checks to Germany into Italy and Switzerland for  
13 parts and machine parts and motors. I don't have  
14 papers, I cannot show, I just know that he send  
15 it. And somehow we survived, we fell the cracks,  
16 some of us.

17 The other day, two days ago a man told  
18 me four survivors died one day, we are dying, we  
19 are dying like flies. Our days are numbered. We  
20 are so much older, we were young when we  
21 started, now we are old and we know where we are  
22 heading. So that's all we are asking, some kind  
23 of dignified amount of health plan, we should be  
24 able -- we should not be as beggars or poor  
25 people that we cannot pay for our medicines and

1 other things.

2 Thank you.

3 THE COURT: Thank you.

4 Inna Arolovich.

5 MS.AROLOVICH: Hello Dear Judge, hello  
6 everybody.

7 I represent American Association of  
8 Jews from the former USSR. The American  
9 Association of Jews from the former USSR is a  
10 (unintelligible) organization which represent  
11 interests not only jews from the former USSR who  
12 are residing in the United States but also  
13 interests of jews who are still residing in the  
14 former Soviet Union.

15 We would like to express our protest  
16 against of the plan of distribution presented by  
17 Mr. Gribetz.

18 First of all, we consider the amount of  
19 so-called Swiss compensation equal of to  
20 one-billion-two-hundred-fifty million as not  
21 substantiated and not adequate. It has been  
22 estimated that this amount is absolutely  
23 insufficient to compensate everybody who belongs  
24 to the five classes of victims defined at the  
25 moment of negotiations with Swiss banks. The

1 amount of \$800 million to compensate has of  
2 those who had accounts with Swiss Bank has to be  
3 reduced at least half this amount because  
4 currently only 26,000 accounts are considered  
5 probable and for rest of it should be additional  
6 negotiations. Other 400 should be added to  
7 one-hundred million which is supposed to be paid  
8 to the Holocaust survivors. Even if to exclude  
9 those who lost their property during World War  
10 II, at least 500,000 people. We consider the  
11 amount 100 million for payment compensation only  
12 to Holocaust survivors is not only insufficient  
13 but so scanty that sounds humiliating.  
14 Whatever's dignity to Holocaust survivors. These  
15 people suffered not only the lost of their  
16 property but health also. Their moral suffering  
17 scarred their soles for life. You heard here  
18 many stories. Payments to the Holocaust  
19 survivors residing in different countries,  
20 including those residing on the territory of the  
21 former USSR should be according to their real  
22 number in each country which is known to the  
23 organizations of Holocaust survivors. This  
24 Holocaust survivors should be named. We know  
25 that there are over 100,000 Holocaust survivors

1 residing on the territory of the former USSR and  
2 it is necessary to consult with such  
3 organizations the way of payments to their  
4 members registered in this organizations. They  
5 are ready to cooperate with the Court and  
6 Mr.Gribetz and to give addresses and telephones  
7 of such organizations in the Ukraine, Russia,  
8 Delaruse (sic), Moldova, Lattvia, Lithuania and  
9 Estonia. We believe it would be not right to  
10 deny them individual payments because of their  
11 economic hardships. They are the poorest people  
12 among the poor Holocaust survivors. And to rob  
13 them it will be injustice. We believe that  
14 payments to the Holocaust survivors should be no  
15 less than those who were forced to work as  
16 slaves for Germany and Switzerland. And as it is  
17 defined it should be about \$1,000 or no less  
18 than \$500. It should be equal defined within all  
19 Holocaust survivors, including jews, Roman  
20 Gypsies and others.

21 THE COURT: Thank you.

22 MS. AROLOVICH: Thank you for your  
23 attention.

24 THE COURT: Rose Newman.

25 A VOICE: (Inaudible).

1 THE COURT: Okay.

2 Isaiha Katsap.

3 MR. KATSAP: Your Honor, Mr. Gribetz, I  
4 am Isaiah Katsap, the president of the  
5 Association for Holocaust Survivor from the  
6 former Soviet Union. I was the last here with a  
7 suitcase with letters and I have today also  
8 letters from the whole country.

9 You know, the last time, the last year  
10 Master Gribetz he called me to send him the  
11 original of my letter. I send it not to this I  
12 find this in the internet. I was happy, yes,  
13 because, you know a lot of things but I really  
14 think maybe it's thanks to my members, to my  
15 Holocaust survivors, I won't tell you that I am  
16 a survivor from (unintelligible), all my family  
17 was killed there and I am with myself. But I  
18 started, I learn, I was working, and I until  
19 this day I am doctor and I am working. I am not  
20 talking here for me, I don't need the money,  
21 never I didn't -- never I didn't complain  
22 something about this. The problem is what I  
23 want, I want justice for my members of whom the  
24 Holocaust survivors because -- I'm sorry,  
25 because they are old, sick, and they are good

1 people, lower from the bottom line of poor  
2 because the old money was there to exercise an  
3 expense for apartment, for the rent. And it's a  
4 very big problem for them. And I would like also  
5 to say like I wrote in my letter about this that  
6 it's necessary to do everything to save -- to,  
7 you know, medical care for the survivors to say  
8 the history of the Holocaust about a lot of  
9 things that is necessary to do. Always I am also  
10 a member of the literacy of the Holocaust. And I  
11 was in Washington many times and I was here and  
12 the only things in everything what it was said  
13 in the time of the negotiations it was for the  
14 Holocaust survivors.

15           We hear also today a lot of things  
16 about Holocaust survivors, Holocaust survivors,  
17 but when we check the distribution plan, I am  
18 very sorry but it's not for the Holocaust  
19 survivors, nothing, you know, I think -- not I,  
20 our other board and other members that I had  
21 received a letter from California that is to 300  
22 people, we have more than 1,000 people, we have  
23 in other states a lot of them, and that  
24 everything -- everybody say that it's necessary  
25 to exact this plan.

1 THE CLERK: Make it shorter, please.

2 MR. KATSAP: I am very sorry, but I  
3 want to say we have to do everything for the  
4 Holocaust survivors. And that, you know, I want  
5 to say that our organization is, you know, the  
6 American organizations, they didn't pay  
7 attention to our organization. And it's  
8 necessary now not to ignore, but to accept what  
9 we are looking for in the -- and we won't -- we  
10 are looking only for justice, justice. And I am  
11 to talk here a lot, you will understand me and  
12 you know what is necessary to do better than I.  
13 And I thank you very much for this what you need  
14 until this time. And we are looking for the  
15 justice. Thank you very much.

16 THE COURT: Ruth Horak.

17 MS. HORAK: I will make it very fast, I  
18 mean, I'm sorry -- I was born in Prague,  
19 survivor three-and-a-half years. Theresi  
20 Eizanstadt, Auschwitz, Hombourg, (phonetic),  
21 Baden Bousen (phonetic), three-and-a-half years  
22 that 150,000 children and young teenager at that  
23 time Czechoslovakia only 100 survived, I'm one  
24 of the 100. And that's the end of it, we all  
25 know that Baden Bousen, Auschwitz is attacked



1 (unintelligible).

2           However, some very disturbing things  
3 have come to my mind. Up to a few weeks ago I  
4 did not want to participate in it. It was too  
5 upsetting to me. Here Gizella Weishaus, who was  
6 very upset, she happens to be a brilliant woman  
7 who single-handedly in the last two-and-a-half  
8 how long years, has fought, and she is the first  
9 one, I think, who uncovered the Swiss, you know,  
10 the Swiss account. And whatever she said about  
11 this gentleman Mr. Fadden is the truth, I was a  
12 witness, I was in his office. And I'm deeply  
13 disturbed that he's permitted to sit at this  
14 table, at this table that represents some kind  
15 of justice. Sometimes I'm really wondering that  
16 it does, because I do have the proof, but a  
17 very, very fraudulent man that is.

18           I have also heard terrible stories  
19 about -- what is your name, sir? What is your  
20 name, sir? No, this gentleman here?

21           A VOICE: You're talking about Professor  
22 Newcorner (phonetic).

23           MS. HORAK: I don't know you seem to  
24 speak so eloquently. However, I didn't see very  
25 much passion or truly feelings in your voice or

1 in your facial expression.

2           However, let's come to the point. I am  
3 not going to talk for hours here.

4           Number one, this was given to me. There  
5 is -- there are counsel members, there is a  
6 Mr. Israh Singer, secretary; general of Jewish  
7 Congress; Rabbi, when I -- I mean, I very devout  
8 Jew, I mean I hear about Rabbi I cringe, because  
9 the more Orthodox they are the more they steal  
10 our money from the nursing homes, from  
11 everything. But now, of course, but now, of  
12 course, they want to participate, they don't  
13 want to give it. They say they want to give it  
14 to Holocaust survivors, but they feel they are  
15 partners with you on probably every one of them.

16           So then I hear an Orthodox Rabbi as the  
17 devout of a Jew I am a reformed Jew I cringe  
18 really because there were no Jewish  
19 organizations who give any money --

20           THE COURT: This is not the place for  
21 this, these comments are not appropriate.

22           MS. HORAK: One moment, all right, let  
23 me come to the point.

24           Now, first of all, I understand that  
25 there is only one man that a Mr. Meade who is

1 the president of the American Gathering of  
2 Federation of Jewish Holocaust Survivors.

3 Now, it has come to my attention and  
4 this has been proven, that Mr. Meade is not a  
5 concentration camp survivor. He was hidden  
6 during the war. He escaped from Israel -- it was  
7 bad enough, however, please, there should be at  
8 least three or four people on the board --

9 THE COURT: I don't know what the point  
10 of this is. We're here to talk about the special  
11 master's plan of allocation --

12 MS. HORAK: What is it?

13 THE COURT: -- we're here to talk about  
14 the recommendation that the special master has  
15 made, not to engage --

16 MS. HORAK: I don't hear so good, could  
17 you please say --

18 THE COURT: I said we're here to talk  
19 about the plan of allocation of the special  
20 master, not to attack other people.

21 MS. HORAK: But this is important, this  
22 is a court. What are we going to do? Can I have  
23 a private audition with you, Judge?

24 THE COURT: If you want you can.

25 MS. HORAK: I would like to, please.

1 THE COURT: Okay.

2 MS. HORAK: You give me an appointment  
3 and I will come. As you see I'm quite eloquent,  
4 I'm not exactly an idiot. I also studied law for  
5 a year but that's beside the point.

6 THE COURT: I know, but this is not the  
7 purpose of this --

8 MS. HORAK: However, I am greatly --

9 THE COURT: -- this is not the purpose  
10 of this meeting.

11 MS. HORAK: One moment, Judge, one  
12 moment, please.

13 Now, I am here to fight for the truly needy  
14 Holocaust survivors. My ex-husband who is the  
15 father of my daughter was yesterday -- he came  
16 yesterday with a special transport from Corpus  
17 Cristi to the Hebrew Home for the Aging. Now,  
18 unlike this German -- this gentleman over there  
19 who claimed that many of the people in his home  
20 cannot be on Medicaid. He is on Medicaid.  
21 Medicaid doesn't have a penny of money,  
22 everything was spent in the last five years of  
23 his illness due to the concentration camp.

24 Now, what we would -- what my daughter  
25 needs now for him is two hours of spec -- you

1 seem to be very bored, sir, is two hours of  
2 special nursing care.

3           Now, these other people -- I'm divorced  
4 from him for 35 years, who need immediate  
5 attention, not next week, not in a year, not  
6 here, not there. I was last week -- two weeks  
7 ago at the claim conference. Now, I don't know  
8 whether they are being paid by our monies, I  
9 have no idea. But there are people who are  
10 sitting there drinking coffee, I think  
11 50 percent of that staff could be reduced, there  
12 is no doubt about it. And I was in charge of a  
13 large office, I know what can be done. And there  
14 is a Rabbi Miller who is the president, who I  
15 was told, comes once a month. I wonder what his  
16 salary is. I would like to know what his salary  
17 is, sir.

18           THE COURT: This is not the place to  
19 find out.

20           MS. HORAK: Pardon?

21           THE COURT: This is not the place to  
22 find out.

23           MS. HORAK: Well, all right. If you give  
24 me a special audition, if you --

25           THE COURT: I will give you, talk --

1 MS. HORAK: I would love to meet with  
2 you any time you have the time.

3 THE COURT: I'll be happy to meet you  
4 privately but there are people who are waiting  
5 to speak more to the subject.

6 MS. HORAK: Well, I didn't speak as long  
7 as most of the others who keep on telling you  
8 about the concentration camp --

9 THE COURT: I know, but you're --

10 MS. HORAK: You know all of the stories  
11 about the concentration camps. I was there for  
12 three-and-a-half years, I don't want to bore you  
13 with it.

14 THE COURT: Thank you.

15 Okay. Ivar Segalowitz.

16 MR. SEGALOWITZ: Your Honor,  
17 Master Gribetz, my name is Ivar Segalowitz, I am  
18 a member of the Board of Directors of NACOS and  
19 I'm also on the Board of Directors of  
20 Margret Teitz (phonetic) which is a nursing home  
21 for Holocaust survivors. So I have two interests  
22 here, that of the -- as a survivor, child  
23 survivors as well as my interests in the nursing  
24 home which accommodates at this point something  
25 like 50 bona fide Holocaust survivors. And I was

1 not at all involved in all of this for years.  
2 And what really got me is when I read two years  
3 ago that the Nazi DSS got social security in  
4 Germany and some of us got nothing. And I think  
5 that people speak of money grabbing, that's a  
6 money grabbing for the Nazis in Germany  
7 currently get the money and those people here  
8 that deserve it don't get it.

9 I am a survivor, I was a little -- I  
10 have a little history of me which I call  
11 "Falling through the loophole," it's a case  
12 history, and I'll read it quickly.

13 Born August 17, 1930 in Klabeledal in  
14 Lithuania, to parents that are of German  
15 citizens, under European law I was a German  
16 citizen. I was an only child; and therefore heir  
17 in the family consisting of two aunts and uncle,  
18 a grandmother and a great aunt. The Nazis  
19 killed all.

20 In 1939 Germany annex is namely to beat  
21 my who is a (unintelligible) put business to the  
22 Nazis in the town that through annexation became  
23 Germany. My family escaped through Lithuania. I  
24 received no compensation for his business  
25 because now (unintelligible) is in Lithuania.

1 1939 my grandmother is forced to flee from  
2 Tulza (sic), Germany to Holland then turn over  
3 her shoe business to a German. I again, have  
4 received no compensation even though the  
5 business was in Germany proper. But today is  
6 Prussia (sic) of that part of it is a Russian  
7 (unintelligible), Tulza is not called  
8 (unintelligible) is (unintelligible).

9           1941 to 1945 my family: father, mother,  
10 two aunts and an uncle went to Kubner ghetto.  
11 The Nazis killed all in Laasberg, Schutorff and  
12 Schutorff concentration camps. My grandmother  
13 and great aunt were killed in Sobipor. I  
14 survived the Kubner ghetto, Dachau, Auschwitz  
15 Bohambau. I was liberated from Bohambau when I  
16 was 14 years old. I survived because I worked in  
17 the ghetto and the camps.

18           In the 1950s I received restitution of  
19 about \$8,000 for loss of liberty, education and  
20 loss of my parents. Since then I had received no  
21 further compensation. I opted not to make claims  
22 of physiological or physical damages. I wanted  
23 to start a new life (unintelligible) as a stigma  
24 of mental problems. Recently, though, I have  
25 been diagnosed as having borderline



1 post-traumatic stress syndrome that has severely  
2 affected my whole family. In other words, these  
3 things are coming back 50 years later.

4           According to the claims conference once  
5 one opts not to make claims, the claim cannot be  
6 reversed. Because of my decision not to claim  
7 for physical or mental damages I was drafted  
8 into the American army during the Korean  
9 conflict. I reached the rank of corporal and was  
10 honorably discharged after two years of service.  
11 I'm proud to have served in the American army.

12           I have a couple of additional notes  
13 here. I wrote a letter to Dr. Israel Singer on  
14 September 15 to which I've received no response,  
15 and I'll read that into the record also.

16           "As a child survivor Kubner, Dachau,  
17 Auschwitz and Bohambau, liberated at 14. And a  
18 member of NAOCS, National Association of Child  
19 Survivors. Many of our group have fallen into  
20 legal and bureaucratic loopholes. This has  
21 prevented us from obtaining compensation for our  
22 parents, our family businesses and ourselves.  
23 This fact is substantiated by a study bank done  
24 by Dr. Sarah Moskovitz and Robert Quill. We feel  
25 that no monies from the Swiss Bank, German

1 companies or humanitarian funds should be  
2 dispensed until further impartial review of our  
3 claims have been completed and injustice is  
4 corrected. That if we were hidden on  
5 concentration camps our suffering certainly  
6 merits compensation same as all the survivors.  
7 Due to our age during the Holocaust memories are  
8 frequently unsubstantiated as proof because we  
9 were children we lacked documentation of our  
10 claims that are -- we lack documentation of our  
11 claims. That, however, should not disqualify us  
12 from us deciding the distribution of these  
13 funds. In other words, we want to be represented  
14 when the decision of how the funds will be made.  
15 Whether we are presently successful or need the  
16 distribution of these funds should be based on  
17 our own and our family businesses, Holocaust  
18 experiences and not only on the present  
19 financial status. Rather, what I am saying,  
20 whether we need the money or not, some of that  
21 money is ours and nobody else's. It's my  
22 father's, my aunt's, my grandmother's; that  
23 money belongs to us.

24           However, should that decision cannot be  
25 made, I fully concur with Leo Reisthem, chief

1 executive of our organization that the money  
2 should be used solely for Holocaust survivors  
3 for health care in their remaining days.

4 I am now 70, and I'm starting to feel  
5 it. I'm seeing doctors more and more frequently.  
6 My doctor bills are going up. I still can afford  
7 them. But I can see it coming in five, six  
8 years, when I will really need care like the  
9 people in the nursing home that I do volunteer  
10 work for. And I really hope that you carefully  
11 consider that the monies first go to those cases  
12 where some injustices were done due improper  
13 administration of the rules and -- or improperly  
14 written laws; and secondly, for health care of  
15 the survivors. Thank you very much.

16 THE COURT: David Handwahl.

17 MR. HANDWAHL: Your Honor,  
18 Mr. Gribetz, my name is David Handwahl. I want  
19 to thank you for listening to me last time, last  
20 year. And I'm thanking you for listening to me  
21 today.

22 As I've stated to you last time that I  
23 was captured by the Nazi dogs when I was  
24 14-and-a-half years old. I spent in a lot of  
25 death camps, much worse than concentration

1 camps, as you well know the concentration camps  
2 were quite bad. I've survived by luck.

3 I want to be a little more specific,  
4 your Honor. I know your ears must be ringing by  
5 now what all the people have been talking about,  
6 Holocaust survivors, Holocaust survivors. It is  
7 true that the people in the name of Holocaust  
8 survivors became filthy rich without giving the  
9 concentration camp survivors a dime. I happen to  
10 know a man who's very conning and a liar. He  
11 became very big by lying, his name is Benjamin  
12 Meade.

13 THE COURT: Listen, I don't want to --  
14 this is not the place for attacking other  
15 people.

16 MR. HANDWAHL: No, I was going to say  
17 something, your Honor -

18 THE COURT: We're here for a purpose,  
19 the purpose is to talk about how the plan of  
20 allocation, not to attack other people. This is  
21 not the place for it, it does --

22 MR. HANDWAHL: So I'm going to skip  
23 that, your Honor.

24 They were talking about us, we are old,  
25 we are illiterate, we don't need the money, this

1 is what they said. And on that behalf they  
2 also -- of course, we couldn't have money, we  
3 couldn't work, we came over here to the  
4 United States, nobody could help me, I had to go  
5 to work. I slept in the basement by somebody who  
6 was nice enough. I worked myself up. I got  
7 married I raised a nice family, pro-American  
8 family. Your Honor, and this came all with  
9 sweat. I couldn't get no education like other  
10 people can, they had fathers and mothers, they  
11 got their educations.

12 How could I get an education if I had  
13 to work 10, 12 hours a day to come to myself?

14 So they tell Holocaust that we are  
15 illiterate and we are stupid. But we somehow  
16 would learn how to read and write without going  
17 to school. So we are not that stupid. We are not  
18 illiterate.

19 What I'm trying to say, your Honor, we  
20 came to America we didn't get a nickel from  
21 nobody. We worked hard and worked ourselves up,  
22 not like the people today, they get a Form A,  
23 subsidized housing, they get (unintelligible),  
24 they get food stamps and they're getting  
25 subsidized housing. We didn't get a dime,

1 nothing. We had to put ourselves --

2 THE COURT: You sound like my father.

3 MR. HANDWAHL: Exactly.

4 THE COURT: He came here in 1923 and  
5 he used to say --

6 MR. HANDWAHL: Exactly. Your father  
7 talks like this and I'd be talking now how I  
8 talking to my children like this, which is a  
9 fact of life, this is what we went through.

10 Your Honor, so for the sake of justice,  
11 we are sick, we are all sick. There isn't one  
12 concentration camp survivor who is in good  
13 health. We can't even afford to pay for  
14 medication, your Honor. Have mercy on us and  
15 have justice, please let justice prevail. Thank  
16 you.

17 THE COURT: Thank you.

18 Carl Rheins.

19 MR. RHEINS: Your Honor, my name is  
20 Dr. Carl Rheins. I'm the executive director of  
21 the EVO Institute for Jewish Research located in  
22 New York City. Founded in Vilna, Lithuania in  
23 August 1925. EVO was able to transfer its  
24 admission into the United States in 1940. Today  
25 EVO stands as the world's largest center for the

1 study for eastern European Jewish history and  
2 culture.

3           By way of introduction, your Honor,  
4 permit me to point out that in a typical year  
5 EVO's archives and libraries receives almost  
6 4,000 visitors annually, including historians,  
7 political scientists, sociologists, attorneys,  
8 family members searching for lost relatives, as  
9 well as countless students of Yiddish language  
10 and literature. The institute currently  
11 possesses over 23 million original documents  
12 related to eastern European Jewish life, both in  
13 Europe and in the Americas and a library of  
14 350,000 volumes in 12 major languages, including  
15 Yiddish, German, Russian, Polish, French,  
16 Lithuanian, Latian, Spanish, English, Ladino,  
17 Ukranian and Hebrew. Each year the institute  
18 publishes between a half a dozen and dozen major  
19 monographs in the field of eastern European  
20 Jewish history and in the Yiddish language. And  
21 these monographs range from scholarly monographs  
22 published in cooperation with major university  
23 presses such as the University of California, or  
24 the Indiana University, for example, to  
25 award-winning books such as our New Poland book,

1 which is recently on the best sellers list.

2           Our presence, your Honor, in court  
3 today is to seek funds from the proceeds of the  
4 \$1.25 billion Swiss banking settlement for three  
5 major educational projects. As we indicated in  
6 our detailed presentation to the court on  
7 September 5, for losses which the Jewish people  
8 suffered during the Holocaust transcend the  
9 6 million martyrs as well as the suffering of  
10 several million other jews who survived  
11 Nazi-occupied Europe. Not only did we lose  
12 almost 40 percent of all jews on the face of the  
13 earth in 1939, but there was a second Holocaust,  
14 a concerted effort by the Nazis and their allies  
15 to destroy all aspects of eastern European  
16 Jewish history, culture and the Yiddish  
17 language.

18           During the war over 750 Jewish academic  
19 institution in Europe were destroyed. In fact,  
20 EVO is the only major prewar European Jewish  
21 academic institution which has been able to  
22 succeed in transforming its admission into the  
23 United States. Even here I need to point out,  
24 your Honor, that we suffered grievously as an  
25 institute during the war; two of our three



1 co-directors were murdered in 1941, in fact,  
2 hundreds of our staff and volunteers were  
3 destroyed, thousands of our books in Vilna were  
4 sent to the German paper mills and an  
5 incalculable valuable art collection of over 120  
6 major works, including works by Chagall,  
7 Reibech, Mingcatz and others were stolen and  
8 presumably were taken to Frankfurt, Germany.

9           On September 12, the special master,  
10 the Honorable Judah Gribetz recommended in  
11 allocation plan to the court that the proceeds  
12 from this settlement should be given first  
13 consideration to Holocaust victims and their  
14 heirs. We fully support the recommendation of  
15 the special master.

16           What we would like to draw the Court's  
17 attention to is the reference in the special  
18 master's report on pages 19 and 20 where he  
19 recommends to The Court that following the  
20 distribution of proceeds to worthy individuals  
21 and survivors that if remaining funds exists  
22 that they be possibly distributed to major  
23 educational institutions for projects worthy of  
24 commemorating the Holocaust.

25           I would like to use the rest of my

1 remaining time, your Honor, to address three of  
2 these projects very quickly.

3           The first project of highest priority,  
4 in our opinion, is the development of the EVO  
5 encyclopedia of the history and culture of jews  
6 in eastern Europe to be published by Indiana  
7 University press in the year 2004. The  
8 encyclopedia will be a standard book of  
9 reference on Jewish life and culture in eastern  
10 Europe before, during and after the Holocaust.  
11 They are describing the way of life of the lost  
12 communities and people, the compendium will, in  
13 a sense, serve the document and memorialize the  
14 complexity and richness of that life and culture  
15 and the individuals who labored on behalf of the  
16 greater Jewish community, including those who  
17 participated in political and religious  
18 movements, trade union movements, the scholars,  
19 artists, musicians, actors, writers and others  
20 of note.

21           The encyclopedia is planned as a  
22 two-volume work of 1.2 million words, to consist  
23 also of 1,000 illustrations and over 100 maps.  
24 The cost of such a work is estimated at \$750,000  
25 of which \$250,000 has already been secured by

1 the institute for this project.

2           Very briefly, your Honor, the other two  
3 projects consists of the creation of five  
4 endowed (sic) fellowships or grants in aid to be  
5 offered to young promising and emerging  
6 scholars, including Ph.D. candidates working in  
7 the field of eastern European Jewish studies.  
8 Each fellowship would require an endowment of  
9 \$100,000, thereby yielding an annual gift of  
10 between eight and \$10,000.

11           With the collapse of the Soviet Union  
12 in 1991, for the first time American, European,  
13 Israeli and other scholars have now been able to  
14 gain free access to archives and libraries in  
15 the former Soviet Union. Here the former  
16 government repositories, private libraries,  
17 former Jewish community centers are now open to  
18 scholars to recover the history and culture of  
19 eastern European Jewish life. And it absolutely  
20 essential that we seize this moment in time to  
21 permit the free exchange of scholarship and the  
22 development of a new body of literature which  
23 restores eastern European Jewish life to its  
24 proper place.

25           Finally, the third project we seek

1 support for is the development of our archives  
2 and libraries through the funding of new  
3 microfilm projects that will permit EVO staffers  
4 to enter into bilateral agreements with  
5 institutions ranging from the New Republic of  
6 Lithuania to the Ukranian Republic, materials  
7 which can be brought to the United States for  
8 scholars to study them.

9           I might point out, your Honor, just  
10 last month I visited Vilna, Lithuania and met  
11 with officials of the Lithuanian State Central  
12 archives in Vilna. We have reached a critical  
13 point, they have no one left on the their staff  
14 who reads or speaks or writes Yiddish. They have  
15 thousands and thousands of frames of microfilm.  
16 They have thousands of documents in the original  
17 and no one in this country can use them. We  
18 would seek to enter into a kind of a bilateral  
19 arrangement in which the originals could remain  
20 in that country and copies could be brought from  
21 the United States were our trained staff at EVO  
22 could work with scholars and others for their  
23 full utilization.

24           Your Honor, permit to close by quoting  
25 the distinguished Dutch/Jewish historian Jacob

1 Presser who wrote in 1972, "Like history, life  
2 continues, but sometimes there must be one who  
3 remembers." These are the challenges that we  
4 face daily, your Honor, and I ask that you would  
5 consider EVO's request if funds become  
6 available. Thank you.

7 THE COURT: Clara Swartz.

8 MS. SWHARTZ: Hello everybody. I am --  
9 excuse my English is not so perfect. But I want  
10 to ask a few questions.

11 I am a survivor of the Holocaust, I was  
12 a young girl. I come from my wealthy family. My  
13 father has insurance and Swiss money. And my  
14 husband he died a few years ago, he never even  
15 get nothing. And he came -- and I don't speak  
16 perfect English because the other day when I  
17 came in America in '56 I was two times homeless,  
18 one time in '44 and the second time in '56,  
19 because we came after the revolution. We can't  
20 come from Hungaria because it don't let to come  
21 over, I have two little children, my husband was  
22 (unintelligible) a very bad concentration camp,  
23 he got sick with the kidney and he suffered the  
24 whole life. I was working alone, I don't have  
25 time to go to school because I have to work, we

1 don't have food stamps, we don't go -- I ashamed  
2 to go to ask if Welfare would help with  
3 (unintelligible) be hungry, you know, the German  
4 take away from my family everything -- we don't  
5 -- have only one dress, and we don't have what  
6 to eat. I was four times to survive from Mengele  
7 -- he was the doctor, a Jewish doctor was  
8 (unintelligible), still I demand that she -- how  
9 you say, she survive -- she save me because she  
10 knows the family, my family came from -- my  
11 grandfather was a big rabbi, and he helps people  
12 (unintelligible) and we don't got everything for  
13 ourselves, we share with people. And I don't  
14 know that people came here, everybody is a  
15 survivor. I have been (unintelligible) and I  
16 felt like a dog, I was sick and I'm still -- my  
17 head is shaking from them, I came back from the  
18 concentration camp and I have every month \$400  
19 medication. And thank you very much you listen  
20 to me and all how long it going to take to get  
21 this money but they give for the German, I got  
22 only a few years from them claim conference and  
23 all the years I don't have nothing. My husband  
24 he don't have nothing because we come late. I  
25 was in German consulate, they tell me I should

1 -- I am not -- you know, they don't give us  
2 because we come late in this country. And after  
3 a few years -- how many years, 54 years,  
4 52 years I don't got nothing from the Germans. I  
5 came (unintelligible) he speak Hungarian, we go  
6 to him and we got a few dollars from Germany, a  
7 few dollars. And after nothing. And later the  
8 claim conference, my husband was sick, 20 -- he  
9 was all the life sick, I have witnesses, I have  
10 papers, we have four -- like a farm -- you know,  
11 like farm and we have so many things and the  
12 German take everything, I have never nothing.  
13 And people want to share the money who, you  
14 know, Switzerland, you know, everybody is no way  
15 survivor. Everybody wants the money who came  
16 here, they never was in concentration camps and  
17 they want to share equally. I think it's not  
18 fair to get equally because who was in  
19 concentration camp we lost all the family,  
20 everybody, and they kill and they took away  
21 everything from us, we was homeless, we lost  
22 clothing, nothing, only one dress we has, and we  
23 don't have food, what to eat, nothing.

24                   So please, Judge Korman, take care of  
25 this case because by children are getting older

1 and how long it going to take to grant this  
2 money, because you know everything, people  
3 dying, we're not young anymore and we need the  
4 money and everybody said organizations and here  
5 and there. I think the money, the Holocaust  
6 survivors and every time this poor people and  
7 rich people, every country, right. And why we  
8 have to share who has to share with everybody  
9 and equally to get a few dollars, you know. And  
10 I don't got nothing, only every three months I  
11 get \$650. Thank you very much for listening to  
12 me and excuse me for my bad English.

13 THE COURT: It's perfectly all right.

14 Judy Hager.

15 MS. HAGER: First I want to thank you,  
16 your Honor, Mr. Gribetz. It's a very hard and  
17 complicated job that have been put on your  
18 shoulders. And I pray, as I hope others, that  
19 God should direct you to the right way of  
20 judgment of justice.

21 Now, we are here the second time. At  
22 the first meeting there were people asking where  
23 was God. And with your Honor's permission I want  
24 to say a few words.

25 This question is bothering a lot. We



1 just finished reading the Five Books of Torah,  
2 which was witnessed by our ancestors, given to  
3 Moses (sic) (unintelligible) directly from God.  
4 This Torah was from then on the inspiration and  
5 guideness for the nation of Israel and almost to  
6 all the human race.

7           Recently, we began again to read the  
8 Torah and in Genesis it's written the spirit of  
9 God was hovering over the water (sic), that's  
10 being the first element of the world.

11           Then God saw the light is good, and  
12 divided between the darkness and the light. The  
13 light and the darkness; light from one side,  
14 darkness from the other side. We cannot function  
15 they cannot function simultaneously; the  
16 darkness and the light.

17           The spirit of God was not divided, was  
18 not taken away, it is still hovering. It did not  
19 disappear. Of course, there is nothing more to  
20 talk about it with anybody who is sure that God  
21 doesn't exist.

22           None of us have all the answer, nor are  
23 we likely to have. We are too small to judge  
24 God. Like Professor Einschten said in his  
25 autobiography to there is the human mind, from



1 thereon is God.

2           The survival of the Jewish people in  
3 their glory and the key to our survival look  
4 like it's directed by the hands of providence.  
5 We got the mission to imprecate the world with  
6 God's spirit hovering like said in the  
7 beginning, hovering over the world.

8           Why the darkness is still existing, the  
9 jews from the beginnings, through all the  
10 generations of exile bearing witness to God's  
11 moral law on earth (sic). We are most not  
12 racist, we are not racist. The truce of God is  
13 open, it's hovering, (unintelligible). You are a  
14 jew either by decent or by face. That created  
15 darkness and light, holiness and profanity,  
16 sanctification of life or profanity that  
17 encompasses every part of human existence.

18           The Germans, in my eyes, in my  
19 research, have the highest satanic intelligent  
20 of misleading and of cruelty. They observed and  
21 saw the Jewish beautiful, clean and pure  
22 society. It was contradict to their declaration  
23 (unintelligible), Germany over everyone. They  
24 could not hear that God himself declared in  
25 Exodus 19 and you shall be for me a nation of

1 priests and of holy good people. That is what  
2 (unintelligible) is all about. The decedents of  
3 cruel, barbarous who flooded Europe spent  
4 millions to portray us to the world as  
5 sub-human. As an English lord said "They choose  
6 a Jewish God but spurn the jews." This element  
7 of holiness against profanity and incestry  
8 (phonetic) is ascribed by Professor Goldhagger  
9 from Harvard University in the book "The Simple  
10 German and the Holocaust." And he writes:

11 "The Germans performed a show of a  
12 Jewish wedding in order to make a joke of the  
13 holiness of Jewish family life."

14 This Germans --

15 THE COURT: All right, your time is up,  
16 thank you very much.

17 MS. HAGER: Yes, what I wanted yet to  
18 tell a few two words, Judge.

19 THE COURT: You haven't spoken one word  
20 to the main issue that we're here for. I've  
21 given you your five minutes but this is -- we're  
22 not here to -- for the purpose of that you're  
23 speaking to.

24 MS. HAGER: Well, then I want to tell  
25 you that I spoke with someone --

1 THE CLERK: Ma'am, your time is up,  
2 please.

3 MS. HAGER: Yes, that the value of the  
4 property that was told -- taken from all those  
5 places off -- for the sharing and she told me  
6 that this amount that is asked is even less than  
7 its value.

8 THE COURT: Thank you very much.

9 THE CLERK: Thank you.

10 MS. HAGER: Thank you.

11 THE COURT: Chaya Hoffman.

12 MS. HOFFMAN: Highly respected  
13 Judge Korman, my name is Chaya Hoffman, born  
14 Reice. I am from Romanian (unintelligible). My  
15 parents, we lost 10 children. The Germans come  
16 in they send everybody to the ghetto. My father  
17 he was very rich, we have big store, furs,  
18 coats, materials. We have (unintelligible),  
19 means the train uniform from the Romania. The  
20 (unintelligible) he was for my father was the  
21 (unintelligible). We was very rich because three  
22 employers go (unintelligible), how my father  
23 travel a lot, put a lot of money in Swiss bank.  
24 The Germans come in they took him away to the  
25 Gestapo. They leave him -- they -- how do I say

1 -- they beat him to bleeding. She tell there she  
2 put the money, where she put everything. We was  
3 hiding in the basement, three big rooms,  
4 everything was there from the store, things.

5           We was four girls, our -- the  
6 (unintelligible) on everything was unfinished,  
7 my mother always before. We was very rich and  
8 very big. They was beating him, she was telling  
9 the truth, there is everything.

10           In the meantime, when come home, tell  
11 us, bleeding very bad, this (unintelligible),  
12 then the girls (unintelligible) take it from the  
13 front, from the German soldiers. Then my father  
14 made a bunker in the rooms under the coach with  
15 my brothers and we hiding there the girls. One  
16 daughter was married, my sister, and three girls  
17 share -- the Germans (unintelligible). And then  
18 when they come, we have a big house, we have two  
19 streets, the garden is there, then the Germans  
20 come to take to the ghetto, my parents, we ran  
21 out in the other side. We was hiding by  
22 Christian. My parents was taken away. From there  
23 we went to Budapest hiding with Christian  
24 papers. My mother put us some buttons, in the  
25 buttons was diamonds and this was covered. That

1 in Budapest we can send us -- we had what to  
2 eat. After (unintelligible) that we can go, you  
3 know, we going to have to go. He was hiding a  
4 little by the two days, but the Swiss consulate  
5 it was so many people we can't be there. I ran  
6 through the streets, they catch me. They put me  
7 in the police, they take from there, they take  
8 me in the camp, concentration near Vianna  
9 (unintelligible). I was there till the end. I  
10 was a young girl. My sister hiding in Budapest.  
11 This was (unintelligible), my brother was in  
12 Romania (unintelligible). We have three from the  
13 10 children. And I know this, we had my father  
14 put a lot of money in the Swiss bank, send it  
15 every Friday come the broker who took the money  
16 in the bank, and from there it was going. My  
17 father was every year there.

18 I ask, Judge Korman, please, how can I  
19 retrieve the money from the Swiss bank, I don't  
20 know who, I don't know where this is. I'm  
21 working in a nursing home. I am a 74 year-old.  
22 I have four children, many grandchildren, thank  
23 God. My husband is 82, sitting here  
24 (unintelligible). Just I support the house. I  
25 working like a horse in the nursing home, come

1 home, the housework, dishes, cooking, baking,  
2 cleaning, so I am out. I would like very much to  
3 try to retrieve the money from the Swiss bank.  
4 I write there a few times, no answer.

5 I ask, Judge Korman, please take in  
6 consideration I need this very badly this money,  
7 our money. I don't bring charity, I never use to  
8 be charity, I'm working for the money.

9 Thank you very much.

10 THE COURT: Laurence Cohen.  
11 Jerome Shestak.

12 MR. SHESTAK: May it please the Court, I  
13 represent the Agunda Chesedir Chabad. The Court  
14 is used to having witnesses but the  
15 extraordinary number of witnesses is certainly  
16 moving to any spectators it must be to the  
17 Court. I think Justice Bradise once said that it  
18 was presumptuous to praise a court for what its  
19 done, although one could be free to criticize  
20 it. At the risk of being presumptuous I'd like  
21 to thank the court and the special master for  
22 the extraordinary work that was done in this  
23 case and for the Court so efficiently and  
24 promptly bringing together this hearing and  
25 undertaking this formidable task.



1           The Agusdis Chesidir Chabad is the  
2 largest or certainly one of the largest single  
3 international Jewish outreach organizations in  
4 the world. It was founded in Russia during the  
5 period of the Napoleonic wars. It continued  
6 during the Tsarist regimes, during all the  
7 (unintelligible) and the terrines of that  
8 regime. It continued during the horrible of the  
9 Shoah. It continued during the post-war  
10 communist regimes. And today wherever there is a  
11 sizeable Jewish community in the former Soviet  
12 Union the Chabad provides services, soup  
13 kitchens, camps, schools and other services for  
14 the Jewish community; and in particular the  
15 survivors. And it, therefore, has a great  
16 interest in what was done.

17           We have really just four small points,  
18 your Honor. And I'll make them very briefly.

19           First, with respect to the cypres  
20 doctrine, we are concerned that the funds that  
21 are distributed be in addition to existing funds  
22 so that they are not merely a substitute for  
23 existing funds that are distributed. And that is  
24 something The Court within its jurisdiction I  
25 think can address.

1 THE COURT: I think it is intended to be  
2 in addition; isn't that true, Judah? It is.

3 MR. SHESTAK: We didn't get that as  
4 clearly as perhaps it should be announced as a  
5 condition of the distribution.

6 THE COURT: It is, it's intended to be  
7 in addition, absolutely.

8 MR. SHESTAK: All right, well that's  
9 fine, your Honor. That takes care of one of our  
10 concerns.

11 We believe that there shouldn't be any  
12 delay, your Honor. I know a ten year's period is  
13 a period with a purpose to it, but the extent  
14 that any parts of the distribution can be  
15 expedited we strongly favor no delay.

16 And then we have a number of concerns  
17 which I shall briefly address with respect to  
18 the distribution.

19 We want to make sure that the  
20 distribution by the agencies be represented in  
21 each community in the former Soviet Union, that  
22 they operate effectively and that they are  
23 representational in what they do. That may not  
24 be the case in every community, so what we  
25 suggest is that The Court continue hearings, and

1 after say a six-month period it have hearings  
2 through the special master to see how the  
3 process is going; whether there are complaints,  
4 what are their nature, evaluate them, make sure  
5 that the distribution process is effective. And  
6 those hearings could take place under the  
7 special master. And since The Court has  
8 continuing jurisdiction it should be no problem.

9           So those are basically our  
10 recommendations, your Honor.

11           THE COURT: I think if you take a look  
12 at page 136 to 137 of the Volume 1 of the  
13 Special Master's report, much of what you're  
14 concerned about is addressed there. And I think  
15 that would --

16           MR. SHESTAK: All right, your Honor.  
17 Does your Honor in its continuing jurisdiction  
18 plan to have hearings say six months from now as  
19 to how the cypres process has worked, its  
20 effectiveness?

21           THE COURT: I'm going to consider it.  
22 It's certainly a reasonable proposal.

23           MR. SHESTAK: Thank you, your Honor.

24           THE COURT: I'd like the six month to  
25 start already. I'd like to start doing it.

1 Ephram Savit.

2 MR. SAVIT: May it please your Honor, my  
3 name is Ephram Savit and first I'd like to thank  
4 everybody for all the work that you've all done  
5 on behalf of Holocaust survivors.

6 I'll be brief, your Honor. I've heard  
7 some of the comments made here today in open  
8 court, and I agree with most of them, and  
9 disagree with some of them. But certainly the  
10 notion that the survivors are the ones who are  
11 entitled to the lion's share of the recovery  
12 here is something that I agree with as the child  
13 of Holocaust survivors. But there is another  
14 group, and it is a small group, a finite group  
15 that perhaps has been somewhat overlooked here  
16 and I'd like to focus some attention on that  
17 group.

18 And that group is what I would like to  
19 term and institutional survivor. And I'm  
20 specifically referring to a small group of  
21 Yeshivas who are in existence in this country  
22 who are not institutions that were erected to  
23 commemorate the Holocaust or in remembrance of  
24 its victims or to promote a Holocaust memorial,  
25 all of which are aims that are extremely

1 (unintelligible). But these are the surviving  
2 Yeshivas of eastern Europe, yeshivas that  
3 existed in eastern Europe in some cases for more  
4 than 100 years and whose students all of whom  
5 were learning the Talmud and were doing so in  
6 the most -- the highest fashion of religious  
7 observants were decimated by the Nazi butchers  
8 during the Holocaust. I myself am affiliated  
9 with one such institution because I know the  
10 family that runs this institution, but that's  
11 not the only institution that is in this class.  
12 The institution that I am speaking of is the  
13 Yeshiva Chofetz Chaim located presently in  
14 Sufferin, New York, but which was established by  
15 the sainted rabbi known as the Chofetz Chaim, he  
16 chooses life in 1864. And this yeshiva had 500  
17 students at the outset of the Holocaust. Ninety  
18 percent approximately of these students perished  
19 in the Holocaust. The head of the yeshiva  
20 Rabbi Mendel Sachs managed to survive the war  
21 with a handful of surviving students of the  
22 yeshiva, and many of them were able to survive  
23 the war because they were able to travel through  
24 China in order to avoid the Holocaust.

25 Your Honor, the yeshiva presently among

1 its programs also supports both financially,  
2 economically and emotionally Holocaust survivors  
3 that were some of those yeshiva students who  
4 managed to survive the war with Rabbi Mendel  
5 Sachs. Rabbi Sachs' grandsons are both in the  
6 audience today. Rabbi Israel Sachs is named for  
7 the Chofetz Chaim, Rabbi Ari Sachs is his  
8 brother and they did submit a detailed letter to  
9 the Honorable Judah Gribetz, the Special Master,  
10 suggesting that there should be some focus on  
11 this type of an institution that is not just an  
12 institution in terms of handling monies that are  
13 the subject of this litigation, your Honor, or  
14 that commemorate the Holocaust, but an  
15 institution that actually survived the  
16 Holocaust. And can document that it is the same  
17 institution that suffered through the Holocaust  
18 and was decimated as a result of the Holocaust.

19 We don't mean to suggest that any money  
20 be taken from any individual survivors because  
21 they are the priority here. There's no question  
22 about that and I'm sure nobody will disagree  
23 with that. But if I may, your Honor, suggest, if  
24 it please The Court, that I suggest that perhaps  
25 some focus should also be made for this type of

1 an institution and perhaps to create a subset  
2 within the survivor class for institutions such  
3 as the Yeshiva Chofetz Chiam there's the Telzi  
4 Yeshiva in Ohio and several others that are in  
5 the same genre.

6 Your Honor, I thank you once again for  
7 allowing me to address The Court.

8 THE COURT: Eva Lerner.

9 MS. LERNER: Honorable Judge Korman,  
10 Counsel and (unintelligible) honorable survivors  
11 which are left, I mean.

12 First of all, I would like to say that  
13 as it stands -- I'm sure well-intentioned -- as  
14 it stands the proposed plan of this additional  
15 funds from the Swiss settlement as well as the  
16 German compensations for slave labor I believe  
17 is extremely unfair.

18 And now, your Honor, if I may, with  
19 your permission, I would like to begin my  
20 statement with a question because I would like  
21 to know if there is any justice at all for a  
22 former slave laborer who performed slave labor  
23 during World War II in fascist Romania who  
24 became disabled for life as a result of massive  
25 persecution as a slave work, rendering him

1 unable to earn a living after the war for his  
2 children and wife, and who died waiting for a  
3 token of justice at a very old age; ironically  
4 just five months before the February 1999  
5 cut-off date.

6           And what about his children, is there  
7 any justice for his three heirs, two of them  
8 survivors children during the war with an  
9 extremely difficult (unintelligible) situation?

10           When asked claim conference agrees to  
11 the fact that Romanian jews were not spared from  
12 genocide by the hand of the German SS present in  
13 Romania from 1940 to 1945 as well as the  
14 Romanian Fascist government who in perfect  
15 harmony engaged in the destruction of the jews.

16           Therefore, instead of them telling us  
17 this victimized heirs to apply for charity I  
18 strongly urge claim conference and the other  
19 powerful Jewish organizations such as World  
20 Jewish Congress to take more seriously the cause  
21 of these forgotten Romanian Jewish victims and  
22 to plea their cause by leading (unintelligible)  
23 more serious (unintelligible) of the German  
24 government so that victims of the Nazi  
25 persecutions and slave laborers from Romania



1 will no longer be excluded from the compensation  
2 that they deserve. The German government is  
3 responsible for compensating Romanian jews even  
4 though the Germans were not invited -- weren't  
5 invited, I'm sorry, in Romania during World  
6 War II by General Una Tenesco. Hitler's  
7 strongest ally in eastern Europe, the German SS  
8 present in Romania all throughout the war years  
9 there were strongly present of Romania all  
10 throughout the war years, tens of thousands were  
11 deported to Auschwitz in all the notorious death  
12 camps throughout Europe. Many have been  
13 reported, of course, (unintelligible) the  
14 Russian camps but a great majority escaped from  
15 certain death and the importation, like my  
16 father who is no longer alive who were forced to  
17 work in slave labor camps as slave laborers. In  
18 these camps were starvation, typhoid, inhuman  
19 conditions, torture and random executions were  
20 daily routine. It took 55 years for Germany, for  
21 the German government to pass this law whereby  
22 slave laborers would finally receive  
23 compensations. Given that a great number of  
24 former slave laborers like my father have  
25 already died, the descendants should be entitled

1 to compensations. What must one conclude  
2 regarding this 55-year-old procrastination on  
3 the part of the German government otherwise,  
4 surely they did not believe that many survivors  
5 would still be alive to collect any  
6 compensations at all. The same justice delayed  
7 is justice denied (unintelligible).

8           Therefore, the descendants of all those  
9 through their death organized justice should be  
10 entitled to compensation claims. The cutoff date  
11 for compensations for slave laborer for February  
12 of 1999 must be extended because for tens of  
13 thousands of former slave laborers who died it  
14 creates a historic injustice; historic because  
15 these victims died waiting for the moment to see  
16 any form of justice rendered. And if they, the  
17 victims who died could speak they would want  
18 their children to be compensated in their  
19 absence. Who could ever doubt that?

20           So let us not add insult to injury by  
21 referring their heirs to charity programs. If  
22 organizations such as Claim Conference or World  
23 Jewish Congress are not able to pay enough money  
24 to adequately compensate all the victims,  
25 including the heirs -- I'm finishing -- of those

1 who like my father have passed on then let a  
2 token of justice be given even if it's maybe one  
3 dollar to all the victims of Nazi persecution  
4 and to their heirs, especially (unintelligible).  
5 No money in the world could adequately  
6 compensate any victim for their suffering  
7 endured under the Nazi terror surely moral  
8 injustice takes precedent, therefore, especially  
9 because of insufficient funds necessary to  
10 compensate adequately all the victims and tokens  
11 of justice as opposed to compensations must be  
12 (unintelligible) form a new (unintelligible)  
13 vocabulary (sic) (unintelligible) for  
14 distribution.

15           In any case we must not tolerate that  
16 any victims of Nazi persecutions dead or alive  
17 hide themselves on the wrong side of the  
18 arbitrary date of February 1999. To do so it is  
19 immoral enough and needless to say unjust, only  
20 when all victims and their heirs will have been  
21 compensated however small the compensation might  
22 be and when we treat all victims with due  
23 respect regardless as to where they suffered  
24 only then will I be able to say that the Jewish  
25 organizations involved have made important

1 enough effort in the pursuit of justice by  
2 giving equal justice to all victims. Anything  
3 short of this constitutes a violation of human  
4 rights in my opinion. Let us not dissolve this  
5 for the victims that's why I appeal to the  
6 Jewish organizations, to this Honorable Court,  
7 Judge Korman, to take all necessary steps to  
8 ensure that equal justice be given to all the  
9 survivors. Let the descendants of all those who  
10 died and who are denied justice be entitled to  
11 compensation claims.

12 I thank you very much.

13 THE COURT: Rabbi Oswald Besser.

14 RABBI BESSER: Honorable Judge, let me  
15 first thank you and Mr. Gribetz for all the work  
16 done here in this respect. I must say that I'm  
17 listening here for the last hour through some  
18 very moving statements and I wish perhaps some  
19 journalists or European should be -- and listen  
20 to it and hear the stories come from the victims  
21 or the descendant of the victim's mouth, perhaps  
22 they would think differently on many of their  
23 politics considering.

24 Anyway, let me introduce myself, my  
25 name is Rabbi Besser and I represent Agudas

1 Israel, which was a founding member of WJRO, and  
2 together with Mr. Zembloc (phonetic) I chaired  
3 the Commission which had the obligation to  
4 divide -- we got \$200 million from Switzerland  
5 which was not a payment to anything or a  
6 settlement, they gave it -- for the first money  
7 they gave with a kind of good will gesture and  
8 we were sitting to do what -- deliberating what  
9 to do and how to do with the money. I got only  
10 five minutes, I can't give you a long lecture  
11 about it.

12           We came to conclusions, two main  
13 conclusions; one was that you have to act as  
14 speedily as possible because time is of the  
15 essence, especially we know that most of the  
16 people who look to get the money are at an age  
17 where they can count. And I must say, I thank  
18 God, I'm very proud that our commission which  
19 only took care of the part which is designated  
20 for the United States. And we were the first  
21 from all over the world to conclude our mission,  
22 our work; very well-done. We distributed 61,000  
23 checks because we were very eager, we got so  
24 many, like we had here today, people said only  
25 money nothing else, we have to have checks and

1 only to survivors. I, myself had reservations to  
2 that, but I agreed to my colleagues and we all  
3 did it. And I'll say to the first part I'm proud  
4 that we did it fast, speedily.

5           The second part I regret; which is that  
6 we divided the whole thing in checks because we  
7 divided 62,000 checks, \$502 each check. The  
8 money, when it's divided in the former Soviet  
9 Union or (unintelligible), Poland, Romania,  
10 Hungary, et cetera, a check for \$500 or a \$1,000  
11 still represents something which is valuable. I  
12 would say that here in New York and in Europe a  
13 check of \$500 doesn't go very far. And I say  
14 from the 62,000 checks which was sent out I  
15 didn't hear one word of appreciation, say thank  
16 you, you did the right thing. On the contrary,  
17 on the contrary, I, at that time had an idea  
18 that instead of giving each one a check we  
19 should create housing for the elderly, to create  
20 some old age homes, create some insurance policy  
21 to cover, to help the survivors, but not in the  
22 form only of a check. And I think it was a  
23 mistake, we shouldn't have done it because now  
24 nobody remembers it. The Swiss government didn't  
25 get any thank you, nobody remembers it. Our

1 commission didn't care to get thank you, but at  
2 least people are more emotionally angry than  
3 appreciative.

4 I heard it today also, and I think I  
5 regret to say it that people don't care so much  
6 who will get than the other one should not get.  
7 It's more a question of animosity here, a  
8 question of emotional feeling; whether they are  
9 right or wrong. We should not let emotions get  
10 hold of our common sense and fairness. You  
11 should be, first of all, fair and then hate  
12 (sic) people.

13 Thank you, your Honor.

14 THE COURT: Thank you, Rabbi, for your  
15 very thoughtful comments.

16 David Moskovits.

17 We're running a little ahead of  
18 schedule because I didn't break for lunch, he's  
19 scheduled for 3 o'clock. So why don't we just  
20 take -- and then some of the lawyers have  
21 reserved time, they may want to speak. So why  
22 don't we take a break until 3 o'clock.

23 (Recess taken until 3 o'clock)

24 (Open court)

25 THE COURT: Let's begin.

1 All right, David Moskovits.

2 MR. MOSKOVITS: Your Honor, my name is  
3 David Moskovits, I'm president of the Endowment  
4 of North Eastern Europe. We have major  
5 institutions namely in Hungary and Romania.

6 The special master clearly addresses  
7 and mentions a (unintelligible) method of  
8 allocation and distribution on page 19. The  
9 special master does not overlook the  
10 immeasurable losses sustained by education,  
11 religious and other communal institution at the  
12 hand of the Nazis; and therefore, on page 20  
13 recognizes that the education institution should  
14 be part of the allocation formula. I believe  
15 that further clarification historical  
16 prospective would have to play in a major role.  
17 While six million jews victim lost everything  
18 and their lives, the survivor lost everything  
19 but their lives. But two classes developed; one  
20 group was lucky to be alive and was lucky for  
21 the second time to be able to live at the land  
22 of their work and go to the western democracies  
23 would also a program, refugee board and the  
24 (unintelligible) centers were provided by the  
25 freedom-loving nation, which facilitated that



1 those people were able to reestablish their  
2 lives and live in relatively comfort and peace.  
3 And they were lucky the third time and they are  
4 alive today and will be able to be in a position  
5 to receive some compensation for their misery  
6 and losses.

7           A second group of survivors were robbed  
8 of their belongings and families through the  
9 Nazis. They lost everything but their lives. And  
10 the second time under communist suppression  
11 regime; and nevertheless, secretly established  
12 Jewish infrastructures by opening yeshivas,  
13 synagogues, (unintelligible) --

14           THE COURT: You're talking too fast,  
15 stop, stop, you're talking too fast I can't  
16 listen. Talk a little slower.

17           MR. MOSKOVITS: Okay, I'm trying to  
18 squeeze it into five minutes.

19           THE COURT: You're not Davening (sic).

20           MR. MOSKOVITS: Afer this life of misery  
21 under communism, unfortunately most of them gave  
22 back their lives to their makers before February  
23 15, 1999; therefore, they are not even eligible  
24 for any compensation. The only compensation is  
25 that their spiritual commitments to Judaism

1 should be continued for generations forever.

2           The allocation portion the special  
3 master does not take into account the historical  
4 injustice. He addresses the social needs for the  
5 survivors. I believe the fifth category should  
6 be established for the compensation of spiritual  
7 needs through education, and funds should be  
8 made for that.

9           I was made clear that this process is  
10 not about money, it's about principle.  
11 Nevertheless, for the last 55 years it was not  
12 the decision of the individuals how the social  
13 (unintelligible) and German distribution monies  
14 should be allocated and to whom. It was the  
15 political and labor leaders invest in the worlds  
16 who decided that we jews who were unfortunate  
17 and lived under a captivity in communist  
18 countries should suffer for the cause of  
19 humanity in order to achieve a world of  
20 democracy and freedom. And we suffered indeed.

21           For instance, from my family of 540  
22 people only six return after the Holocaust. On  
23 top of that my father who was sentenced with 25  
24 years of imprisonment, I as a child of nine  
25 years old was declared an enemy of the people.

1. The World Jewish Leader, the Jewish agency of  
2 the State of Israel the joint (unintelligible)  
3 and tried to (unintelligible) through  
4 clandestine way. The told us that the centrality  
5 of Jewish people is Israel. And since there was  
6 no opportunity for immigration, those agencies  
7 supplied us with books and material and Jewish  
8 subjects so that we maintain our Jewishness  
9 through taught (unintelligible). This is how the  
10 refustic movement was created, this is how more  
11 misery was brought upon every single family who  
12 was encouraged to practice, advocate and teach  
13 religion, but we were proud of it then and we  
14 are proud of it today.

15           We understand that it is not about  
16 money, which we never had. It is about  
17 principle.

18           How often were we assured that the  
19 world Jewry would never let us down?

20           How often were we assured that no jew  
21 will ever be left behind?

22           How often were we shown secretly the  
23 heros of Jewish people in episodes such that  
24 took place in (unintelligible). And now after  
25 the suffering in maintaining Jewish identity and

1 on the unbelievable circumstances you have in  
2 central eastern Europe and Soviet  
3 (unintelligible), a third generation that did  
4 not have the opportunity to be educated of our  
5 heritage, culture, tradition and Jewish laws.  
6 And are we to believe today that the World Jewry  
7 is going to turn their backs on our brothers,  
8 sisters and children and will not let a large  
9 portion of those monies go to educate the worlds  
10 who were forced to become non-believers?

11           It is important to know that prior to  
12 the Nazi regime every jew identified with the  
13 Jewish (unintelligible). It is economically  
14 impossible today -- on page 24 of the master's  
15 report, it is important to note that democracy  
16 is based on universal accepted human behavior,  
17 such that -- which is based on Judea Christian  
18 doctrine. Are we jews going to deny our brothers  
19 to know what is Jewish in the Judea Christian  
20 doctrine and force them out of the Jewishness  
21 because we will not allocate significant fault  
22 for education in the countries in the former  
23 communist (unintelligible).

24           I appeal to you that in the first  
25 round, as well as the original (unintelligible)

1 emphases and priorities should be placed on  
2 Jewish education, especially for the people who  
3 have been under soviet domination.

4           But please understand how brokenhearted  
5 I am today when I see that people of Vietnam are  
6 giving respect to America by giving back the  
7 remains of our fallen comrades. We jews cannot  
8 find the remnants of our ancestors. Is history  
9 going to remember as it even throwing away the  
10 hard fought battle for spiritual existence of  
11 our people of Israel.

12           Thank you.

13           THE COURT: Is Harry Reicher here?

14           MR. REICHER: Thank you, your Honor.

15           My name is Harry Reicher, and I respect  
16 The Good of Israel Organization.

17           Let me at the outset very happily join  
18 the chorus of praise that is being heaped on and  
19 very deservedly so on Special Master Gribetz for  
20 the masterly document that he has produced. And  
21 every more importantly, perhaps, for the way in  
22 which he went about his work in listening  
23 sensitively, patiently and intently to anyone  
24 who wanted to make contributions and submissions  
25 to him. His work is greatly respected, as is

1 that of his staff, and I single out particularly  
2 Ms. Shari Reich who's been of wonderful  
3 assistance to us during the course of our work  
4 over the months.

5 Let me also mention that we're being  
6 greatly assisted by your Honor's staff, and in  
7 particular Paula, who's been extremely helpful  
8 and acquitted herself in difficult circumstances  
9 with grace and with sensitivity --

10 THE COURT: I wish she would treat me  
11 that way.

12 MR. REICHER: If your Honor likes I'll  
13 have a word to her about that.

14 Your Honor, The Good of Israel is an  
15 organization which appears before your Honor,  
16 but seeks nothing for itself, not one single  
17 cent. And naturally we support all efforts to  
18 minimize the administrative costs associated  
19 with disbursing the \$1.25 billion and would  
20 happily support any moves by your Honor to  
21 retain oversight, either directly or indirectly  
22 in the way the monies are spent.

23 Your Honor, we have put a detailed  
24 submission before the special master and a brief  
25 submission to your Honor, and all of those

1 papers are before The Court and I won't rehearse  
2 those here but let me -- the terms of those  
3 here, but let me just focus on the underlying  
4 historical fact which lies at the half of our  
5 submission; and that is that just as the Nazi  
6 sought to eradicate all jews in Europe and  
7 tragically succeeded to the extent of six  
8 million, so to did they also seek to destroy a  
9 cultural way of life. And that cultural way of  
10 life was represented by a vast array of communal  
11 organizations, congregations and institutions.  
12 That supplies both an historical and moral  
13 dimension to a particular claim but it doesn't  
14 rest there because those historical and moral  
15 dimensions are in turn represented by the legal  
16 dimension, because the definition of "victim" or  
17 "target" of Nazi persecution which is quite  
18 essential to the settlement agreement goes on to  
19 add that in addition to individuals it includes  
20 communal organizations, institutions and  
21 congregations. And we would respectfully suggest  
22 that that is a legal recognition of the  
23 underlying historical and moral facts that I've  
24 put to your Honor.

25                   Your Honor, that being the case, what

1 we would respectfully submit is that account  
2 ought to be taken of that in two respects, if I  
3 may put it this way "fine tuning" the special  
4 master's recommendations.

5           First, in relation to the looted assets  
6 class we would respectfully submit that express  
7 recognition ought to be granted to communal  
8 institutions and organizations which are victims  
9 and targets of Nazi persecution within the legal  
10 definition, and specifically when it comes to  
11 applying monies to the former Soviet Union we  
12 would suggest that it's appropriate to take  
13 account of this aspect of the definition of  
14 victim or targets of Nazi persecution. That  
15 would be a recognition of the fact that people  
16 were targeted not only physically but also  
17 spiritually, they were attacked in terms of  
18 their physical being as well as in terms of  
19 their spiritual lives. And both of them, both  
20 aspects, both dimensions to the persons attacked  
21 ought to be catered to.

22           Furthermore, when it comes to a  
23 residual our respectful submission is that the  
24 same sort of principles apply. In picking up  
25 something that your Honor said this morning,



1 your Honor made a comment about the  
2 inappropriateness perhaps is a way of  
3 summarizing of talking too much about residual  
4 at this stage without knowing how much residual,  
5 if any, would be left over. If by that your  
6 Honor intends to signal that in due course there  
7 will be some further process to consider how the  
8 residual ought to be dealt with. And I perceive  
9 that Professor Neuborne nodding in that  
10 direction -

11 THE COURT: Yes, and so did the special  
12 master in his report.

13 MR. REICHER: My range of vision doesn't  
14 extend to the special master, but  
15 Professor Neuborne -

16 THE COURT: No, no, I didn't mean he was  
17 shaking his head, I mean it's right in his  
18 report.

19 MR. REICHER: I understand the comments  
20 that he's made there. But if your Honor intends  
21 to take that aspect of it and conduct some  
22 further process later on which will be open to  
23 the public and that part of it I didn't  
24 understand the special master to be indicating.  
25 But if that's the case then we would reserve any

1 submissions as to the residual for that  
2 occasion. But in the meantime we really invite  
3 your Honor to take into account these underlying  
4 principles in that part of your Honor's  
5 consideration of the plan of allocation.

6 THE COURT: You've spoken very  
7 eloquently and when the time comes we'll make a  
8 decision. But one of the things I've heard as  
9 I've listened both at the fairness hearing which  
10 involved a totally different issue, and at this  
11 hearing today as you heard, it seems to me this  
12 -- among the survivors there seems to be -- at  
13 least those who speak -- this extraordinary  
14 antipathy towards providing money to anyone  
15 other than survivors, to giving money to groups  
16 and to an extent towards religious groups. I  
17 mean, it's just a constant -- next to the  
18 lawyers, which we've actually not put it off for  
19 two weeks only because I didn't want to listen  
20 to that today -- it seems to be, you know,  
21 there's such a strong -- there appears to be  
22 such a strong sentiment among the survivor  
23 community. I'm just curious to hear -- I have an  
24 open mind, I'm just curious to hear your  
25 response.

1           MR. REICHER:    Your Honor, I am  
2 profoundly saddened by what I heard earlier  
3 today, as well as what I heard a year ago in  
4 this court. Those of us who are of my generation  
5 stand in awe of people who went through that  
6 hell, experienced it and saw it. And we tip our  
7 lids (sic), as it were, to those people who have  
8 successfully managed to rebuild their lives. And  
9 we stand behind no one in expressing our  
10 admiration for them. At the same time we see  
11 Jewish history not only in terms of individuals  
12 but in terms of organizations, in terms of  
13 beliefs, in terms of the Jewish religion, and we  
14 see the need to buttress those institutions and  
15 organizations that are seeking to perpetuate the  
16 way of life that was destroyed and sought to be  
17 destroyed expressly so by the Nazis because we  
18 see in those institutions the promise of Jewish  
19 continuity and Jewish eternity. And therefore,  
20 we look very much to that dimension to see what  
21 it is that we can do to ensure the continuity of  
22 the Jewish people. If we don't buttress those  
23 institutions that direct themselves to that  
24 dimension then it may be tragically that we will  
25 have lost ultimately. And that is a fear that

1 haunts us, and it's for that sort of reason that  
2 we stand before your Honor, invite your Honor to  
3 take into account Jewish history over the last  
4 several thousand years and look to what will  
5 ensure its continuity and survival.

6 THE COURT: But whose responsibility is  
7 that? Is that the responsibility of the Jewish  
8 community or should it be the responsibility of  
9 this fund?

10 MR. REICHER: Your Honor, the agreement  
11 makes it the responsibility of this Court  
12 because of the way it defines "victim or target  
13 of Nazi persecution." If that were not there we  
14 would stand only historical and moral grounds  
15 but we don't, we stand also very firmly on legal  
16 grounds -- very, very firmly. And there is  
17 clearly a misconception among many of the  
18 survivors who perhaps had not had explained to  
19 them or have not understood fully the  
20 ramifications of the legal agreement that your  
21 Honor's charged with executing.

22 THE COURT: Thank you very much.

23 MR. REICHER: If your Honor pleases.

24 THE COURT: That was the last of the  
25 people who are scheduled to speak.

1           Mr. Swift now wanted to go before you,  
2 but I didn't -- I'm just teasing him.

3           MR. SWIFT: Your Honor, for the record  
4 my name is Robert Swift and I'm one of the  
5 plaintiffs' counsel.

6           Listening to the comments today it  
7 struck me that in August of 1998 when we reached  
8 agreement on the amount we, of course, didn't  
9 have the other agreements that have subsequently  
10 taken place with Germany and Austria to look at,  
11 and the way in which to allocate within the  
12 overall funds that were to be made proper monies  
13 for different categories. And were I writing on  
14 a different mosaic today I might well have urged  
15 a different type of allocation within the Swiss  
16 bank settlement agreement.

17           There are two fundamental points I wish  
18 to make.

19           First, I believe there's a serious  
20 over-funding, over-valuing of the deposited  
21 assets claim. There's a misunderstanding  
22 embodied in the special master's report with  
23 regard to deposited assets. And I speak as one  
24 who both participated in the negotiating the  
25 agreement as well as one who also participated

1 in drafting it. There is a concept of deposited  
2 assets which is further subdivided into matched  
3 and unmatched accounts. There's also what we  
4 spent a great deal of time discussing the "but  
5 for accounts." At the time we negotiated the  
6 settlement agreement -- there was firmly fixed in  
7 my mind and I think that of others -- the amount  
8 of \$71 million for deposited assets which would  
9 be paid for matched accounts principally. But we  
10 also allowed, and I did in my own mind, a range  
11 of 50 to \$100 million.

12 Now, subsequently we received the  
13 Volper report (sic) which poured a much larger  
14 value on that I think to the surprise certainly  
15 of the plaintiffs' counsel and probably your  
16 Honor. And it might well be appropriate to  
17 increase the amount that would be allocated for  
18 that category, but not to the extent of \$800  
19 million. The justification that I read in the  
20 special master's report in which I heard from  
21 your Honor this morning was that the deposited  
22 assets claim was the strongest legal claim. That  
23 may be, but it was certainly not the only claim  
24 that was being negotiated. The looted assets  
25 claim, in fact, took most of our attention and

1 was the largest settlement claim that counsel  
2 discussed at page G-2 in the second volume of  
3 the special master's report there's a linchpin  
4 statement where he says: "There must be a  
5 relationship between the looted asset and the  
6 Swiss entity." In fact, because of what we knew  
7 about the flow of assets from the germs through  
8 the Swiss and what we concluded from other  
9 historical evidence we had, very few, if any  
10 people, would be able to trace assets in that  
11 respect. Consequently it was our intention not  
12 to have a relationship type of claim with regard  
13 to looted assets. In other words, the claim did  
14 not have to be able to be traceable to a  
15 specific Swiss entity.

16           The second point I wish to make is that  
17 it is not yet an outmoded idea that the recovery  
18 of money in a class action should be distributed  
19 directly to class numbers. I would like to The  
20 Court to reexamine its ability to distribute  
21 looted assets portion to individuals. As someone  
22 remarked a little earlier, the money goes much  
23 further in third world countries. And of course,  
24 in other contexts notably --

25           THE COURT: And that same person Rabbi

1 Besser gave eloquent testimony to what's wrong  
2 with what you're suggesting.

3 MR. SWIFT: I understand that.

4 And I also understand that there's  
5 really two different schools of thought; one  
6 that you articulated just a moment ago that the  
7 survivors would like the money to go to  
8 survivors.

9 We can't forget the fact that 564,000  
10 people completed questionnaires and submitted  
11 them to this court. I think the Court runs a  
12 risk of frustrating a great many of those people  
13 if it embarks on a program for benefits for  
14 those people which is distinct from direct  
15 compensation to them.

16 I think it would be a mistake to, for  
17 example, dole out food over a period of time to  
18 those people as opposed to giving them the money  
19 that was taken away from them or their relatives  
20 at a much earlier point.

21 However -- and much has been said about  
22 the rights of survivors and the desire to get  
23 money to them. No one has spoken more eloquently  
24 to that than Burt Newborn, Mel Weiss, others,  
25 including myself we're very anxious for that.



1 Some of the other settlements, in fact, do  
2 accomplish that and hopefully in much direct and  
3 fast way.

4 Heirs have distinct rights under the  
5 settlement. And we can't forget those -- nor  
6 that we can forget the fact that there are some  
7 very aged heirs. And the people who have largely  
8 been -- whose rights have been frankly virtually  
9 excluded from some of these other settlements  
10 have been the heirs of people who have died  
11 between 1940 and the year 2000.

12 THE COURT: I know. But you were a party  
13 to the German settlement which does exactly  
14 that, as has almost every other form of  
15 settlement of claims of this kind. You signed  
16 off the German settlement that did exactly that.

17  
18 MR. SWIFT: And I was a voice in the  
19 wilderness, your Honor.

20 THE COURT: I said that he signed-off on  
21 the German settlement agreement that it did  
22 exactly and that there's virtually no comparable  
23 agreement that provides for across-the-board  
24 payments to heirs because of the problems that  
25 have been outlined.

1           Nevertheless, the one category that  
2 deals necessarily with heirs that's set out in  
3 the settlement agreement is the deposited  
4 assets. That's a necessity a class that's  
5 composed of heirs, they haven't been cut off  
6 there and you're arguing that I should  
7 prematurely cut down the amount of money that's  
8 been allotted to them before the claims process  
9 is even in place.

10           MR. SWIFT: No, what I'm saying is that  
11 the allocation in that category I think is  
12 excessive and that there are heirs also in the  
13 looted assets class --

14           THE COURT: It remains to be seen.

15           But the problem with the looted assets  
16 class is that the class is so large that unless  
17 you have some rational basis for distributing  
18 money everybody will get nothing or next to it,  
19 not quite worst than what Rabbi Besser described  
20 occurred with the monies that were distributed  
21 in the United States.

22           The problems is, as I've said before  
23 when we've met, I refuse to approve a plan that  
24 does not provide a rational method of  
25 compensating people. This is not the normal

1 class action settlement where everybody gets two  
2 dollars, I'm not going to have a settlement like  
3 that.

4 MR. SWIFT: No, and I don't think you  
5 would. And if the simple arithmetic is if there  
6 was \$600 million for looted assets, which is  
7 less, than frankly, class counsel had assumed in  
8 the negotiations that that would be \$1,000 per-  
9 person. That's assuming that --

10 THE COURT: Counting how many people?

11 I don't quite understand, the number of  
12 people who have submitted -- are you counting --  
13 just dividing by the number of people who have  
14 submitted claims?

15 MR. SWIFT: Yeah. Well --

16 THE COURT: Well, that's not the  
17 universe. The people who have submitted claims  
18 are the tip of the iceberg, possibly. There were  
19 not told that you had to submit a questionnaire  
20 in order to be a claimant. I think you have to  
21 look at the whole universe here of potential  
22 claimants.

23 MR. SWIFT: My point isn't that I can  
24 stand here at the lectern and come up with a  
25 solution that's going to satisfy your Honor, but

1 my point --

2 THE COURT: Look, the problem is is that  
3 there's no necessarily correct solution, that's  
4 the problem. Reasonable people could argue for  
5 days over this. There is no necessarily correct  
6 solution, but the one solution that I won't be a  
7 party to is one where everybody gets nothing or  
8 next to nothing and so that we could say we gave  
9 everybody something.

10 MR. SWIFT: And my point is simply this  
11 that I think it needs to be examined a little  
12 more whether something can be fashioned.

13 And last, your Honor, I would just ask  
14 if your Honor could give us a half hour of time  
15 in chambers, there's a --

16 THE COURT: Yes, of course.

17 MR. SWIFT: We need to resolve, I think,  
18 some matters on the Swiss insurance.

19 THE COURT: Yes.

20 MR. SWIFT: Thank you.

21 THE COURT: Mr. Weiss.

22 SPECIAL MASTER: I think Mr. Urbach goes  
23 first.

24 THE COURT: I'm sorry.

25 MR. URBACH: Good afternoon, your Honor,

1 for the record my name is Mel Urbach,  
2 plaintiffs' counsel. I'd like to keep my  
3 comments brief. It's been a long day, I've heard  
4 a lot of comments, a lot of information for all  
5 of us to digest.

6           There is a cause, your Honor, that I  
7 would like to add as sort of a footnote to  
8 today's proceedings. There's a cause that hasn't  
9 been represented here today and one that I think  
10 deserves, certainly, a couple of moments of our  
11 attention as we draw to a conclusion.

12           During the Holocaust Nazi murder  
13 squads, killing squads stretched out across  
14 Europe, Ukraine, Lithuania and other countries  
15 creating mass and communal graves in almost  
16 every town and village in Shtetl (phonetic) that  
17 was overrun by the Nazi forces. In many cases  
18 those graves have remained a secret or are in  
19 unknown locations and have remained as such  
20 under communism. With the economic development  
21 that we now see in eastern Europe and the  
22 possibility of many of those countries joining  
23 the European economic community many of those  
24 grave sites are not in danger and some, in fact,  
25 have already have been excavated and the remains

1 of Holocaust victims are being exposed.

2           As a jew and as an orthodox jew that  
3 creates a tremendous problem for people like  
4 myself who are children of Holocaust survivors.  
5 There's a possibility that those remains are our  
6 grandparents or members of the community who  
7 were killed and butchered in the most horrible  
8 form that history has ever witnessed. Since this  
9 is the first settlement that we have I would  
10 like The Court to consider setting aside a  
11 relatively small amount of money, perhaps  
12 somewhere in the region of \$20 million so that a  
13 fund could be established under the guidance of  
14 this court and under the continuing supervision  
15 of the court so when these situations arise in  
16 the European community countries of central  
17 eastern Europe that a team of experts could be  
18 immediately dispatched prior to the companies  
19 receiving their permits to build shopping  
20 centers, schools and other institutions and  
21 commercial-developed properties on the grave  
22 sites. I remind the Court that these ultimate  
23 victims, these ultimates victims who never made  
24 it beyond 1943 or '44 or '45, these ultimate  
25 victims had bank accounts, these ultimate

1 victims had looted assets taken from their  
2 houses and their person, these ultimate victims  
3 had their houses ransacked and everything taken  
4 away, and unfortunately, including their lives.

5           So as we address this issue and as we  
6 decide on compensation and as we decide on the  
7 various classes and the double victims, the  
8 heirs, let's not forget, your Honor, that Europe  
9 is full of these mass graves, every single town.  
10 Further research is necessary for us to try to  
11 uncover them. We ought to show the highest  
12 respect for those victims who cannot come here  
13 today and cannot make the presentations on  
14 behalf of themselves. So it falls on us as the  
15 Hebra Kedisha (sic), as the Holy Burial Society  
16 for us to take that responsibility, send out  
17 that message. Surely, your Honor, and this is  
18 something that every Holocaust survivor, every  
19 child of a Holocaust survivor and ever member of  
20 the community would appreciate.

21           Thank you very much.

22           THE COURT: Mr. Weiss.

23           MR. WEISS: Your Honor, I think the way  
24 we should at today is the miracle at Cadman  
25 Plaza. And for all of the survivors who have

1 gotten up and spoken and had the ability to  
2 speak and to tell their stories, it's because we  
3 have a justice system in this country that has  
4 permitted it. Fifty-five years have gone by and  
5 no other forum has provided that ability to be  
6 heard and act sort of a catharsis in some ways  
7 for the still living who went through that pain.  
8 The job of this court is supervising this case  
9 has been a very, very difficult one in so many  
10 different ways. For those who think it hasn't  
11 gone quickly enough I just remind them that this  
12 is a case involving a worldwide class of victims  
13 whose suffering dates back 55 to 60 years ago.  
14 People of all different languages, people who's  
15 claims have been suppressed with a veil of  
16 secrecy of facts that only because of this  
17 litigation have now become known to the world.  
18 If that is all that this case achieved it would  
19 have been enough to warrant the bringing of this  
20 litigation.

21           We now have lifted the veil of secrecy  
22 concerning some of the most horrible things that  
23 nations and the citizens of those nations did.  
24 And for the victims of those crimes and their  
25 survivors that is a benefit that a justice



1 system such as we have in this country  
2 permitted.

3           We made the deliberate decision as  
4 lawyers at the end of the negotiate with the  
5 Swiss because of what Judge Korman said that  
6 there is no one right way to handle the  
7 distribution of this fund; indeed, there are  
8 thousands of right ways to do it that we would  
9 entrust it with a single person, a special  
10 master whose judgment we all trust as being fair  
11 and objective and independent. And the worse  
12 thing that we can do is fight over the results  
13 of that recommendation. We should not delay the  
14 distribution of these benefits in any way that  
15 the special master and the judge ultimately find  
16 is fair, reasonable and adequate; even though  
17 some of us or most of us would find other ways  
18 that we might suggest could be done. That would  
19 be the worst result that we could achieve here.

20           And one last point, and it's one I  
21 think that Mr. Swift was addressing. It is very  
22 clear to me as one of the chief negotiators that  
23 we had to deal with the class definition in this  
24 case, which was broader than just the survivors.  
25 And there was an intent that there would be some

1 cypres funds to be dealt with as a surrogate for  
2 the survivors -- for the heirs.

3           We didn't address how much that should  
4 be and we understood very well the point that  
5 Judge Korman has made; and that is, that the  
6 distribution should be meaningful. So we leave  
7 it, really, to the special master and The Court  
8 to decide how best to form a cypres fund and the  
9 usage for that cypres fund. It could any one of  
10 many, many different usages; several of which  
11 were recommended today. But it would not damage  
12 the intent of the negotiators if some funds  
13 ultimately were used for education and for  
14 prevention of future horrors which would best  
15 memorialize those who are not here today because  
16 they were killed and best avenge to some degree  
17 what happened to them.

18           Thank you.

19           THE COURT: All right. There were two  
20 people who were asked -- who didn't get to speak  
21 who asked to speak. And as long as we have time  
22 I call first on George Klein.

23           MR. KLEIN: Your Honor, thank you very  
24 much for giving me this opportunity even though  
25 I registered late.

1 My name is George Klein. I am at this  
2 moment vice-chairman of the New York Holocaust  
3 Memorial Commission and the New York Holocaust  
4 Memorial Museum where I was cochairman with Bob  
5 Morgenthau and appointed by Ed Koch 15 years ago  
6 to work to create the museum. And Judah Gribetz  
7 who has done an extraordinary job as special  
8 master sits on the board of that museum.

9 I also come here today as not as a  
10 survivor but someone who was fortunate to arrive  
11 to this country in 1938. My father who you may  
12 have known Steve Klein, a founder of a company  
13 called "Barton's Candy" and was chairman of  
14 (unintelligible) the rescue organization during  
15 the war and after the war helped bring over  
16 close to 18,000 people to the United States  
17 after 1945.

18 I have heard what Rabbi Besser said, it  
19 was repeated to me. And I have had countless of  
20 hours of discussions with him and Judah Gribetz  
21 and many others whether even -- whether the  
22 Jewish community to take it all, any reparations  
23 that are offered by either Germany or from  
24 Switzerland; (a), because there was a question  
25 in my mind and of many other people, does that

1 take away a moral claim that the Jewish people  
2 have against Germany; especially in others who  
3 participated in the war for the destruction and  
4 the murder that they gave.

5           However, a decision was made by many  
6 organizations that these funds in some manner,  
7 shape or form should be returned to the Jewish  
8 people in some way.

9           The Swiss case is very unique. And the  
10 problem with it you have had as judge or the  
11 special master has had, has been extraordinary  
12 to try to determine how to allocate this \$1.25  
13 billion. There is no question that the dormant  
14 accounts need to be dealt with. I had the  
15 privilege of owning the Swiss bank. We were the  
16 fifth largest bank in Switzerland which I  
17 purchased eight years ago and sold it four years  
18 ago. There were a number of times where we had  
19 discussions because of the size of the bank,  
20 with the presidents of the four or seven other  
21 large banks in Switzerland about what happened  
22 to the money that was deposited by the Nazis in  
23 Switzerland and what happened to the Jewish  
24 money.

25           And their response was very interesting

1 that the German money that was deposited by the  
2 Ghastapo and others almost all of them were  
3 claimed somehow by survivors. And that the money  
4 that was left over by Jewish depositors were  
5 settled by an agreement with representatives of  
6 the State of Israel in 1950, by the payment of  
7 \$12 million to "Mr. X and Y organization, has  
8 total settlement of all claims that may be had  
9 by the Jewish people against the Swiss banks." I  
10 checked out that story and the name of the  
11 individual who negotiated on behalf of "The  
12 Jewish Agency," and it was true, there was an  
13 agreement reached in 1950 between the Jewish  
14 Agency and the Swiss Bank Organization in  
15 Switzerland.

16           However the dormant accounts were never  
17 really taken care of. And whether it's \$800  
18 million or it's \$1.1 billion or more, that is a  
19 financial transaction of trust that was given to  
20 these banks that need to be paid back totally;  
21 whether it is \$800 million or more I believe The  
22 Court must the allocation and the capacity to be  
23 able to pay back to anyone who may have a claim  
24 or family member vis-a-vis that amount of money  
25 that's there.

1           What we're talking about is sums that  
2 may be left over. And what I am trying to speak  
3 to today is to ask this Court to help establish  
4 a precedent as it relates to where some of the  
5 money may go, even if it's a small amount. And  
6 that relates to institutions, and to communities  
7 that were destroyed by the Nazis.

8           In 1940 the head of the Gestapo issued  
9 an order specifically in Poland that the  
10 individuals that should not be allowed to  
11 emigrate were mainly the teachers and the rabbis  
12 of Poland itself. And they specifically said  
13 that we have to be careful that they do not  
14 emigrate to the United States because if they go  
15 to the United States the Jewish life, Jewish  
16 religion, Jewish communities will be rebuilt.  
17 The Nazis understood that the backbone and the  
18 history of the Jewish people or the survival of  
19 the Jewish people was not just the fact that  
20 they were born as Jews but that they had a  
21 history or education and that they belonged to  
22 communities where education, Jewish education and  
23 ceremonial tradition was part of that life.  
24 There were thousands of communities that were  
25 destroyed in Europe. There were thousands of

1 institutions that were destroyed in Europe. Many  
2 of those, just like survivors somehow, someway  
3 were recreated in the United States, in Israel  
4 and in Europe. They, over the history of time,  
5 what they represented is how the Jewish people  
6 survived. And if there is any answer, and one of  
7 the answers to what the Nazis tried to destroy  
8 was not just individuals but the entire Jewish  
9 history, philosophy, religion that is the  
10 backbone of the individual jew that stands here  
11 today or that is alive today.

12           And if this court in some way can give  
13 some amounts to these institutions it may give a  
14 stronger message to the other three or four or  
15 \$5 billion that may be coming from other sources  
16 to give an opportunity or at least of a  
17 consideration to help those institutions that  
18 were recreated that the Nazis tried to destroy.

19           So I'm not asking for a specific  
20 amount, I'm not trying to represent that we can  
21 even determine a specific amount but anything  
22 that can be given in some form, whether it's  
23 then divided per capita based on the number of  
24 the children that are studying both here and in  
25 Israel or on any other matter may be an answer

1 can in some way to what the Nazis tried to  
2 destroy. Survivors come first, basically. And we  
3 have dealt with survivors in trying to recreate  
4 this museum and to give a message. And I still  
5 don't and many of us don't understand how a  
6 survivor rebuilt their life. There's nothing and  
7 there isn't enough money to repay them for the  
8 suffering that they went through. But when you  
9 hear that people receive \$500, \$300, \$200 it  
10 will make very little difference in their lives  
11 in this country and in western Europe. But a  
12 message, a strong message that this Court and  
13 our community took into consideration that  
14 institutions and others who were the backbone of  
15 the survival of the jews for 2,000 years and  
16 what the Nazis tried to destroy would be a very  
17 strong message to help in the future of other  
18 funds that may be brought.

19 Thank you very much.

20 THE COURT: Mr. Harold Suretsky.

21 MR. SURETSKY: Your Honor, thank you for  
22 letting me stay despite my very late request. I  
23 don't represent anybody except maybe my aunt.  
24 And she wanted me to be here and say something.

25 She's a survivor who was in the three



1 camps; two labor camps, one concentration camp.  
2 She was lucky and that's probably why she's  
3 still alive that in the labor camp she was doing  
4 work in the office. But in the concentration  
5 camp she has a spell doing shoveling and  
6 transporting of coal, wooden shoes worn in the  
7 winter, toes frozen, circulation pretty much  
8 caput in one leg. And the result of this was  
9 broken hips, great pain and she's in a  
10 wheelchair. Also one time she went out to go to  
11 the bathroom at night and she forgot to put the  
12 star on her jacket and the guard hit her in the  
13 right ear with a rifle butt and she doesn't hear  
14 there any longer.

15 She's 93 years old now, she's going to  
16 have to go into a nursing home soon.

17 Now, I think from what I understand on  
18 the Swiss thing the most she'd get would be  
19 about a thousand dollars, and that wouldn't do  
20 much for her.

21 THE COURT: Are you talking about under  
22 the slave labor as a slave laborer?

23 MR. SURETSKY: She was a slave laborer.

24 THE COURT: Yeah, well that's in  
25 addition to what she would get under the German

1 settlement.

2 MR. SURETSKY: I know, I know, but  
3 you're dealing with the Swiss, I thought.

4 THE COURT: Well, we're looking at a  
5 single group that's benefitting potentially from  
6 two separate sources of money. We really have to  
7 look at it as one. In fact, this was -- I'm  
8 convinced that the settlement in this case was  
9 really the catalyst for the German settlement  
10 ultimately. And so in trying to make an  
11 allocation I think the special master was  
12 looking to the fact that there were basically  
13 this particular group was beneficiary of two  
14 separate classes; and therefore, was trying to  
15 take into account that this was not the only  
16 source of money for this particular group.

17 MR. SURETSKY: In any case, I just  
18 wanted to make the one point that she pointed  
19 out to me that she's worried about going to a  
20 nursing home, what that would cost. After the  
21 war she worked as seamstress in the ILGWU. And  
22 has very little savings.

23 Now, I don't know about the total of  
24 money, but certainly the Swiss of \$1,000 will  
25 make very little difference. But if some kind of

1 funds could be set up for nursing homes to make  
2 sure -- or for medical care, especially in this  
3 country where it's not free to everybody,  
4 medical care to be sure that these people are  
5 taken care of. Some kind of fund -- that's a  
6 suggestion for medical care for people who can't  
7 afford it.

8 THE COURT: Thank you very much.

9 MR. SURETSKY: All right.

10 THE COURT: All right, we stand  
11 adjourned.

12 (Matter concluded)

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## C E R T I F I C A T E

I, ROSALIE LOMBARDI, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound recording of the proceedings reduced to typewriting by me in the above-entitled matter.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this matter.

IN WITNESS THEREOF, I have hereunto set my hand this 2nd day of February, 2001.

*Rosalie Lombardi*

Rosalie Lombardi

Transcription Plus II