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16

17 **UNITED STATES DISTRICT COURT**  
18 **NORTHERN DISTRICT OF CALIFORNIA**

19 **EMIL ALPERIN, JEWGENIJA ROMANOVA,**  
20 **MARIA DANKEWITSCH, VLADIMIR**  
**MORGUNOV, VLADIMIR BRODICH,**  
21 **WILLIAM DORICH, IGOR NAJFELD,**  
**LIZABETH LALICH, MLADEN DJURICICH,**  
22 **ROBERT PREDRAG GAKOVICH, NEVENKA**  
**VUKASOVIC MALINOWSKI, ELI ROTEM,**  
23 **MILORAD SKORIC, VELJKO MILJUS, FRED**  
**ZLATKO HARRIS, MILJA CONGER, ALLEN**  
24 **DOLFI HERSKOVICH, BOGDAN KLJAIC,**  
**DAVID LEVY, ZDENKA BAUM**  
25 **RUCHWARGER-LEVY, VLADAN**  
**CELEBONOVIC, DESA TOMASEVIC**  
26 **WAKEMAN, DANIEL PYEVICH, KOVILJKA**  
**POPOVIC, ORGANIZATION OF UKRAINIAN**  
27 **ANTIFASCIST RESISTANCE FIGHTERS,**  
**UKRAINIAN UNION OF NAZI VICTIMS AND**  
28 **PRISONERS, JASENOVAC RESEARCH**

**NO. C99-4941 MMC (EDL)**

**FOURTH AMENDED CLASS ACTION COMPLAINT FOR:**

1. **AN ACCOUNTING;**
2. **CONVERSION;**
3. **UNJUST ENRICHMENT;**
4. **RESTITUTION;**
5. **VIOLATIONS OF INTERNATIONAL LAW.**

1 **INSTITUTE, and THE INTERNATIONAL**  
2 **UNION OF FORMER JUVENILE PRISONERS**  
3 **OF FASCISM OF UKRAINE, RUSSIA, AND**  
4 **BELARUS, THE REPUBLIC OF SERBIAN**  
5 **KRAJINA IN EXILE on behalf of themselves and**  
6 **all others similarly situated,**

**JURY TRIAL DEMANDED.**

**Plaintiffs,**

**v.**

7 **VATICAN BANK, a/k/a “INSTITUTE OF**  
8 **RELIGIOUS WORKS” or “ISTITUTO PER LE**  
9 **OPERE DI RELIGIONE” (IOR); THE**  
10 **FRANCISCAN ORDER (OFM.) a/k/a**  
11 **CROATIAN FRANCISCANS and CROATIAN**  
12 **CONFRATERNITY OF THE COLLEGE of SAN**  
13 **GIROLAMO DEGLI ILLIRICI (SAINT**  
14 **JEROME OF THE ILLRYIANS) ,**

**Defendants.**

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1 present day Croatia and parts of Bosnia-Herzegovina and Serbia and militarily occupied sectors of the  
2 former Soviet Union.

3 4. This is an action against the Vatican Bank or Istituto Per Le Opere Di Religione (hereinafter  
4 referred to as Vatican Bank or IOR), Franciscan Order, also known as the Order of Friars Minor or  
5 Croatian Franciscans or Croatian Confraternity of San Girolamo Degli Illirici (hereinafter referred to  
6 as OFM), for an accounting, unjust enrichment, restitution and conversion of the Ustasha Treasury after  
7 the fall of the NDH regime in May 1945.

8 5. The defendants concealed, hypothecated, converted, laundered, profited from, and retained  
9 a significant portion of the illegally looted wealth of the NDH, Ustasha Regime, and Ustasha which has  
10 been deemed collectively the "Ustasha Treasury" by the United States State Department and Holocaust  
11 restitution experts.

12 6. Plaintiffs and their heirs and beneficiaries seek an accounting, restitution, disgorgement, and  
13 to recover damages arising out of the participation of Defendants Vatican Bank (IOR) and the OFM in  
14 a common scheme and course of conduct.

15 7. Defendants profited from, both directly and indirectly the financial proceeds of the inhumane  
16 and genocidal system instituted by the Ustasha Regime in Croatia and territories subject to Croatian civil  
17 or military occupation upon those peoples that it viewed, not as human beings, but as subhuman  
18 according to Ustasha ideology which equated Croatians with Aryans.

19 8. Defendants accepted, concealed, hypothecated, laundered, retained, converted and profited  
20 from assets looted by the Ustasha Regime during April 1941 through May 1945 and deposited in, or  
21 converted, concealed, hypothecated, trafficked, credited, pledged, exchanged, laundered or liquidated  
22 through, the IOR, and OFM after the demise of the NDH in May 1945.

23 9. Defendants acted post Second World War at the behest of the former NDH leaders and  
24 sympathizers including wanted war criminals like Ante Pavelic.

25 10. Defendants, by making available assets from the Ustasha Treasury, directly assisted the NDH  
26 leaders and their Ustasha followers to successfully evade justice post Second World War for their

27 \_\_\_\_\_  
28 attempt died in Spain.

1 genocidal crimes.

2 11. Recipients of funds laundered and converted by the defendants included the war criminals:  
3 Ante Pavelic, leader of the NDH; Andrija Artukovic, NDH Minister of the Interior, who fled to  
4 California; Ante Bonifacic, Leader of the NDH Government in Exile, who fled to Chicago; Stepan  
5 Hefer, NDH Minister of Agriculture, who fled to Argentina; Croatian Army Commander and Chief  
6 Vjekoslav “Maks” Luburic who fled to Spain; NDH Vice President Djafer beg Kulenovic who went to  
7 Lebanon; and Dinko Sakic, Jasenovac Concentration Camp Commander, who fled to Argentina.

8 12. Defendants by converting and concealing assets from the Ustasha Treasury, prevented the  
9 rightful owners and beneficiaries from recovering their assets and making use of them.

10 13. Before the conclusion of the Second World War, all defendants were aware the Ustasha  
11 treasury consisted of funds looted from Holocaust Survivors in violation of international law.

12 14. Upon the end of the second World War, the defendants were advised by the international  
13 community that the knowing use and benefit from the Ustasha Treasury were long standing violations  
14 of international law and various codes of criminal conduct including The Hague Convention of 1907.

15 15. All defendants nevertheless improperly retained and concealed illicit profits and withheld  
16 them from their rightful owners.

17 16. Defendants have unlawfully and unfairly profited from these practices for more than half a  
18 century, thereby illegally and improperly strengthening their own economic position in California, the  
19 United States, and throughout the world.

20 **II. DEFINITIONS**

21 17. The term “Confraternity” refers to a voluntary association of laymen and priests, established  
22 and guided by a competent ecclesiastical authority for the promotion of special works.

23 18. The term “correspondent bank account” means an account established to receive deposits  
24 from, make payments on behalf of a foreign financial institution, or handle other financial transactions  
25 related to such institution.

26 19. “Looted Assets” is defined as any and all personal, commercial, real, and/or intangible  
27 property, including cash, securities, silver, gold, jewelry, businesses, art masterpieces, equipment,  
28 collectibles, and intellectual property, that was illegally and/or improperly taken from the ownership

1 or control of an individual, organization or entity, by means including, but not limited to, theft, forced  
2 transfer and exploitation, during the period of April 1941 through May 1945 by any person, organization  
3 or entity acting on behalf of, or in furtherance of the acts of, the Ustasha Regime, its officials or related  
4 entities, in connection with crimes against humanity, war crimes, crimes against peace, genocide, or any  
5 other violations of fundamental human rights.

6 20. The term “Ustasha” refers a Croatian fascist organization put in charge of the Independent  
7 State of Croatia by the Axis Powers in April 1941

8 21. The “Ustasha Regime” is defined as the fascist government of the NDH from April 1941  
9 through May 1945.

10 22. The “Ustasha Treasury” refers to amounts of gold, silver, gems, currency, and other  
11 valuables plundered and looted from Serbs, Jews, Romani, and citizens of the former Soviet Union by  
12 the Ustasha regime.

### 13 **III. JURISDICTION & VENUE**

14 23. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 in that plaintiffs make claims  
15 against defendants under federal common law as it incorporates customary international law and  
16 international treaties enforceable as federal common law.

17 24. Plaintiffs’ claims involve violation of well known international treaties and norms  
18 condemning the practice of looting and plunder, including the Hague Convention of 1907, the Treaty  
19 of Versailles in 1919, and the Roerich Pact of 1935.

20 25. This Court has jurisdiction pursuant to 28 U.S.C. §1332 in that the amount in controversy  
21 as to each claim asserted and sought to be asserted herein by certain Plaintiffs exceeds the sum of  
22 \$75,000, exclusive of interest and costs and certain Plaintiffs herein are U.S. residents and thus diverse  
23 in state citizenship from Defendants, citizens of foreign states.

24 26. This Court has jurisdiction pursuant to 28 U.S.C. § 1350 in that certain plaintiffs are citizens  
25 of Serbia (Popovic, Celebonovic), Ukraine (Alperin, Romanova, Dankewitsch, Morgunov) and four  
26 plaintiffs are foreign organizations from Ukraine (Ukraine Organization of Ukrainian Antifascist  
27 Resistance Fighters, Ukrainian Union of Nazi Victims And Prisoners, International Union of Former  
28 Juvenile Prisoners of Fascism) and Serbia (Serbian Republic of Krajina in Exile) , who assert claims for

1 torts in violation of the law of nations including the common law of the United States, customary  
2 international law, the Hague Convention of 1907, Customary International Principles of International  
3 Law Recognized in the Charter of the Nuremberg Tribunal, G.A.Res. 95(I), UN GAOR, 1st Sess., at  
4 188, UN Doc. A/236 (1947); Convention on the Prevention and Punishment of the Crime of Genocide,  
5 78 U.N.T.S. 277 (1948); Universal Declaration of Human Rights, U.N. G.A. Res. 217 (III1948);  
6 International Covenant on Civil & Political Rights, 999 U.N.T.S. 171 (December 16, 1966);  
7 International Declaration Concerning the Laws and Customs of War, adopted by the Conference of  
8 Brussels, Aug. 27, 1874, reprinted in, (1907) 1 Am.Jur.Int.L. Supp. 96; and Protocol No. 1 to the  
9 European Convention on Human Rights and Fundamental Freedoms (Mar. 20, 1952, 213 U.N.T.S.  
10 262,E.T.S.9).

11 27. This Court has supplemental jurisdiction over plaintiffs' non-federal law claims pursuant to  
12 28 U.S.C. § 1367 and for any claims not otherwise covered by the aforementioned jurisdictional bases.

13 28. This Court has personal jurisdiction over the alien defendants in that all of the alien plaintiffs  
14 are alleging tort violations arising under the law of nations in accordance with the Alien Tort Claims  
15 Act and the named Defendants conduct business within the State of California and have minimum  
16 contacts with the State based on defendant's continuous and systematic general business activities  
17 within the State of California.

18 29. Venue is proper in this Court because the defendants are doing business in this District and  
19 may be found in this District within the meaning of 28 U.S.C. § 1391(b) and/or, as aliens, may be sued  
20 in any district pursuant to 28 U.S.C. § 1391(d).

21 30. Further, defendants and certain plaintiffs may be found in this District and plaintiffs are  
22 unable to pursue remedies in the place where the transaction occurred in that no adequate or available  
23 remedies exist and that such efforts would be futile.

#### 24 **IV. FOREIGN SOVEREIGN IMMUNITY ACT**

25 31. Plaintiffs contend that IOR is not sovereign nor an agent or instrumentality of a sovereign  
26 but is in fact the personal property of the Pope in his position as the ecclesiastical head of the Roman  
27 Catholic Church and its Eastern Rites along with other non sovereign shareholders, stakeholders,  
28 associates or partners.

1 32. If IOR is found to be sovereign, or an agent or instrumentality of a sovereign, then 28 U.S.C.  
2 1605 (The Foreign Sovereign Immunity Act) is held to apply to the IOR retroactively per the US  
3 Supreme Court decision, *Altmann v. Austria*, 541 U.S. 677; 124 S. Ct. 2240; 159 L. Ed. 2d 1; 2004.

4 33. If the IOR is found to be sovereign, the actions plaintiffs complain of involve an activity for  
5 which the law provides an exception to sovereign immunity under 1605(a)(2),(3), (5).

6 34. Pursuant to 28 U.S.C. 1605(a)(2), there is an exception to sovereign immunity as the  
7 conversion, money laundering, and retention of the plunder of plaintiffs' property by the IOR has had  
8 a direct commercial effect in the United States and California.

9 35. Funds from the Ustasha Treasury laundered by IOR were used to set up the publishing and  
10 commercial activities of the Croatian Publishing House Croatia and the Croatian Historical Institute  
11 under the direction of Fr. Dominik Mandic and to expand the existing operations of the *Danica*  
12 newspaper, the Croatian Franciscan Custody of the Holy Name, the Franciscan Printery, the *Croatian*  
13 *Almanac*, and the *Croatian Catholic Messenger* newspaper, all in Chicago and under the direction of  
14 OFM.

15 36. The aforementioned Croatian Franciscan enterprises in Chicago conduct business nationwide  
16 including California.

17 37. IOR possessed and/or possesses gold accounts in the United States and the private and public  
18 gold markets in the United States were directly effected by gold credits and transfers made possible by  
19 the additional gold supplied the IOR from the Ustasha Treasury.

20 38. Pursuant to 28 U.S.C. 1605(a)(3) there is an exception to sovereign immunity as the  
21 conversion, money laundering, and retention of the plunder of plaintiffs' property by the IOR violated  
22 international law and the property is present in the United States in connection with a commercial  
23 activity carried on in the United States by the IOR and/or that property or any property exchanged for  
24 such property is owned by the IOR and the IOR is engaged in a commercial activity in the United States.

25 39. The Ustasha Treasury was the product of Ustasha wartime looting and was converted by the  
26 defendants beginning in 1946 in violation of international law. A portion of the Ustasha treasury was  
27 transferred, credited, and exchanged into the IOR's gold trading program including gold on deposit at  
28 branches of the Federal Reserve Bank and elsewhere in the United States and disposed of through both

1 the public and private markets in the United States providing a commercial advantage to the IOR gold  
2 trading activities in the United States.

3 40. Pursuant to 28 U.S.C. 1605(a)(5) there is an exception to sovereign immunity regarding  
4 conversion of Holocaust victim gold and property by the IOR in the United States if it does not fall  
5 under the exceptions above.

#### 6 **V. STANDING OF PLAINTIFFS**

7 41. All individual plaintiffs allege that their property was taken by the Ustasha Regime which  
8 maintained a systematic procedure of looting and plunder from its victims in which confiscated property  
9 was deposited in central accounts in Zagreb or was auctioned or sold first and the proceeds sent to the  
10 Ustasha Treasury.

11 42. All individual plaintiffs allege that their property in the Ustasha Treasury was smuggled  
12 outside Croatia in May 1945 with the assistance of OFM and with the assistance of the defendants was  
13 converted and laundered to the benefit of the exiled Ustasha with some portion retained by the  
14 defendants.

15 43. Items from the Ustasha Treasury including artwork, numismatic properties, gems, jewelry  
16 and philatelic rarities are still immediately recognizable by their rightful owners.

17 44. All organizational plaintiffs have, and represent, members whose property was looted by the  
18 Ustasha and deposited in the Ustasha Treasury and converted or retained by defendants and have a direct  
19 stake and interest in an accounting of the Ustasha Treasury.

#### 20 **VI. PLAINTIFFS**

21 45. Plaintiff Emil Alperin was born June 3, 1922. Prior to the German invasion of Ukraine, he  
22 resided in Odessa, Ukraine at 63 Sverdlova Street, Apt. 11. Croatian troops looted and destroyed all the  
23 household belongings and personal property of Alperin. Plaintiff was held prisoner at Buchenwald  
24 Concentration Camp from March 1944 until April 1945 where he was prisoner #34646. Emil Alperin  
25 is Jewish and currently resides in Kharkov, Ukraine.

26 46. Plaintiff Jewgenija Romanova, formerly Petruchina, was born December 7, 1927. Before the  
27 German occupation, she resided in Nikolayev, Ukraine at 13 Kolodeznaya Street. Croatian troops looted  
28 and destroyed all the household belongings and personal property of Romanova including gold rings,

1 jewelry and currency. Romanova was held prisoner at Ravensbruck Concentration Camp from March  
2 1944 until April 1945 where she was prisoner #33543. Romanova currently resides in Kharkov,  
3 Ukraine.

4 47. Plaintiff Maria Dankewitsch was born January 29, 1922. Before the German occupation, she  
5 resided in Sevastopol, Ukraine in the Fudolf District. Croatian troops looted and destroyed all the  
6 household belongings and personal property of Dankewitsch. Dankewitsch was held prisoner at  
7 Ravensbruck Concentration Camp from February 1943 until May 1945 where she was prisoner #17406.  
8 Dankewitsch currently resides in Kiev, Ukraine.

9 48. Plaintiff Vladimir Morgunov was born September 2, 1925. Before the German occupation,  
10 he resided in Mariupol, Ukraine in the 75 Kotovskoogo Street. Croatian Naval personnel looted and  
11 destroyed all the household belongings and personal property of Morgunov. Morgunov was held  
12 prisoner at Buchenwald Concentration Camp from March 1943 until April 1945 where he was prisoner  
13 #13341. Morgunov currently resides in Kiev, Ukraine.

14 49. Plaintiff Vladimir Brodich was born March 1, 1931 in the Kingdom of Yugoslavia. As a  
15 young Serb Orthodox boy, plaintiff resided in the town of Kostajnica, Krajina. In August 1941 the  
16 Ustasha took away his father Nickola, his 24 year old brother Dragomir, and his older sister to a  
17 detention center. Plaintiff's father and brother were tortured, then murdered. At the detention center  
18 plaintiff's sister was gang raped by Ustasha. Plaintiff's family lost their two homes, all their property,  
19 valuables and furnishing. It took the Ustasha more than two years to auction all of his brother's property.  
20 The proceeds were then sent to the capital Zagreb and deposited in the Ustasha Treasury. Plaintiff came  
21 to the United States in 1949, is the only surviving heir to the family property, and currently resides in  
22 Arizona.

23 50. Plaintiff William Dorich was born July 17, 1939 in West Virginia. During the Second World  
24 War, the Ustasha burned to death 45 Serb victims in the Orthodox Serb church in the village of Vojnic,  
25 of which 17 victims were close relatives of the Dorich family. All of the Dorich-Todorovic family  
26 property was seized by the Ustasha including gold, currency, jewelry and coins. Plaintiff resides in  
27 California.

28 51. Plaintiff Igor Najfeld was born June 28, 1944 in Yugoslavia. Plaintiff's parents had been

1 living in Zagreb on April 10, 1941 when the Nazi's invaded Yugoslavia, but by October 4, 1941 the  
2 Ustasha Regime had imprisoned plaintiff's parents and later sent them as forced laborers to Bosnia.  
3 Plaintiff's grandparents, who were sent to Jasenovac concentration camp and murdered there, owned  
4 a department store in Slavonski Brod that was looted and taken over by the Ustasha. Fifty-six of  
5 plaintiff's mother's relatives were murdered by the Ustasha, many of whom perished in the Jasenovac  
6 Concentration Camp system. Most of plaintiff's relatives were prosperous and all lost significant  
7 property to the Ustasha looting. Plaintiff grew up in Yugoslavia and eventually emigrated to the United  
8 States, where he now resides in Vermont.

9         52. Plaintiff Lizabeth Lalich's paternal family lost 48 family members in May 1945, when all  
10 the women and children from the Lalich family were murdered and placed in a mass grave. They were  
11 killed by Croatian Ustasha after they descended from hiding in the mountains above their village in  
12 Korencia, Lika (Krajina) Yugoslavia. The Ustasha looted all their property as well. In Plaintiff's  
13 maternal family (Knezevic), Jovan Knezevic, brother of plaintiff's grandfather Stojan Knezevic, was  
14 taken from his home and tortured and murdered by the Croatian Ustasha in May 1944, in Mutilich, Lika  
15 (Krajina) and their properties despoiled and looted. Plaintiff's teenage cousin Dusanka Kovacevic  
16 (niece of plaintiff's grandfather Stojan Knezevic) was taken from her home in Dalmatia to Croatian  
17 capital Zagreb, along with other kidnaped Serbs, and hung to death on Serb Eastern Orthodox  
18 Christmas, January 7, 1942. Plaintiff resides in Illinois.

19         53. Plaintiff Mladen Djuricich was born March 20, 1929 in Strmen, Township of Crkveni Bok,  
20 County of Kostajnica, Krajina, on the Sava River. During the first week of May 1941 plaintiff's father  
21 discovered a naked body floating down the river from Sisak and pulled it out. After removing the board  
22 nailed to its head, he recognized it as a Jewish liquor dealer from Sisak and thereafter buried his body  
23 in the Strmen Orthodox cemetery. Two days later plaintiff's father was arrested by Ustasha for the crime  
24 of burying a Jew and sent off to Auschwitz. He survived, was reunited with his family after the war, and  
25 died in 1958. Plaintiff was in August 1942 one of some 3,000 Serb children forcibly converted to  
26 Catholicism by the Ustasha and Franciscans (OFM), where he was so viciously kicked by Franciscan  
27 priests for accidently tripping into one, that his friend watching reported to his mother that he was dead.  
28 A little later, on October 13, 1942 a large number of armed Ustasha surrounded the three villages of the

1 Township to round up everyone to take them to Jasenovac extermination camp, but plaintiff and his  
2 older brother Djuka escaped and went to join the partisans. However, plaintiff was too young and had  
3 to return to Strmen where he found everything burned and looted and learned that more than a 100  
4 people had been killed on the spot. His aunt Stoja Maslovara was one of two women that the Ustasha  
5 beheaded. Plaintiff's father's entire estate of a large house and furnishings, two barns, four horses, eight  
6 cows, many pigs and turkeys and chickens was destroyed and looted by the Ustasha. Plaintiff currently  
7 resides in Indiana.

8 54. Plaintiff Robert Predrag Gakovich was ten years old in June 1941 when the Ustasha came  
9 to the town of Plaski in Krajina where he lived with his parents and two brothers. His father, a 40 year  
10 old Serb Orthodox priest was taken along with all of the town's prominent Serbs to Velebit Mountain,  
11 tortured, and in July 1941 thrown into the Jadovno pit to die. Plaintiff's mother fled with her children  
12 for Belgrade in July 1941, leaving behind all their possessions which were looted by the Ustasha.  
13 Plaintiff thereafter emigrated to the United States in 1952 where he graduated from Berkeley and retired  
14 in 1994. Plaintiff resides in Wisconsin.

15 55. Plaintiff Nevenka Vukasovic Malinowski was born in the village of Mala Pralovica. In 1942  
16 plaintiff's father Panteluja, brother Nikola, aunt Vida and uncle Gjulo Kovacevic, cousin Milan Zigic  
17 and his 18 year old son Nikola, and most of her friends and neighbors were taken by the Ustasha, some  
18 sent to forced labor in Germany but those that were left were sent to the Jasenovac concentration camp  
19 system. All Serb property in the village was looted by the Ustasha. A surviving witness told plaintiff  
20 that her relatives were tortured, then made to dig their own graves, chained together, and every other  
21 victim shot (to save bullets) causing them all to fall into the graves, dying and alive together. Some in  
22 her village who resisted were murdered on the spot. Plaintiff's uncle Samojlo Vukasovic resisted and  
23 was beheaded in his own yard; an eyewitness told plaintiff that his body stood upright for a few  
24 unbelievable seconds with blood spouting from his neck, while his wife ran out from her hiding place  
25 screaming in horror. The Ustasha then murdered her by smashing her head with their rifle butts until  
26 her brains oozed out. Another eyewitness told plaintiff that her cousin Sava Otkovic resisted also and  
27 as punishment the Ustasha tied him up in his yard while they drove his widowed mother and wife and  
28 two small children back into the home to which they then set fire. The Ustasha only murdered him after

1 forcing him to listen until the dying screams of his family and ended by cutting off his extremities and  
2 finally decapitating him so that his body looked like the carcass of a slaughtered animal. Plaintiff resides  
3 in Florida.

4 56. Plaintiff Eli Rotem was born June 11, 1931 in Zagreb. On April 3, 1941. All the family  
5 property in Zagreb was forfeited and taken by the Ustasha. Plaintiff's father survived the war years in  
6 a prisoner of war camp in Germany, while plaintiff and mother and sister managed to get to Split, in the  
7 Italian zone. Plaintiff thereafter spent some five months in refugee camps before emigrating to Palestine  
8 in April 1945. After serving in the Israeli armed forces, plaintiff emigrated to the United States in 1952  
9 and became a citizen. Plaintiff currently resides in Florida.

10 57. Plaintiff Milorad Skoric was born in Pakrac, Yugoslavia, on December 12, 1948, but his  
11 father was born on January 8, 1924 in Loncarica, a small village between Virovitica and Grubisno Polje.  
12 Plaintiff's father was grazing pigs in the nearby forest in 1942 at the age of 18 when he saw smoke  
13 rising from Loncarica. By the time plaintiff's father returned home the whole village had been pillaged  
14 and burned down and every person, including all his family, taken away, by the Ustasha. In 1945 it was  
15 learned that his father and mother and two of his six sisters had perished in the Jasenovac concentration  
16 camp system, and that some younger sisters had been sent as forced laborers to Germany. Plaintiff  
17 emigrated to the United States in 1991, became a citizen, and currently resides in California.

18 58. Plaintiff Veljko Miljus was born in 1950 in the same village as his ancestors in Tusilovacski  
19 Cerovac, Yugoslavia. There plaintiff's grandfather Mica Miljus and uncle Nikola Miljus were arrested  
20 by Ustasha in 1942 and sent to Jasenovac concentration camp where they perished. Plaintiff's  
21 grandfather and uncle were peasants and not guilty of any crime except being Orthodox Serbs, but a  
22 Croatian neighbor's accusations against them was enough to send them to certain death at Jasenovac.  
23 Plaintiff's remaining family was forced to flee from the Ustasha several times during World War II. All  
24 the family property and valuables was looted or destroyed by the Ustasha. Plaintiff immigrated to the  
25 United States in 1965 and now resides in Illinois.

26 59. Plaintiff Fred Zlatko Harris was born in Zagreb on April 15, 1911 as Zlatko Hirschler and  
27 his now deceased wife Milica Neumann was born on August 17, 1918. As a Croatian Jew plaintiff and  
28 his relatives lost all their property to Croatian and Ustasha looting, including their homes and apartments

1 and furnishings. Plaintiff was the production manager for his in-law's apparel factory, the second largest  
2 in Yugoslavia at the time, and the factory and its contents including 50 advanced industrial Singer  
3 sewing machines was confiscated. Plaintiff's in-laws also owned many pieces of investment real estate,  
4 a new car, and plaintiff a motorcycle, all of which were confiscated. Persecution of Jews began about  
5 two months after the German invasion. Plaintiff and his in-laws managed to reach Split, under Italian  
6 occupation, but not before having to deliver to the Zagreb police headquarters most of their gold,  
7 jewelry, and other valuables under pain of immediate execution. Plaintiff became a US citizen and  
8 currently resides in the San Francisco Bay Area, California.

9         60. Plaintiff Milja Conger was born January 1, 1925 in Slunj, Krajina. After undergoing surgery  
10 in the hospital in Ogulin in April 1941 plaintiff was taken by Ustasha to Karlovac as a forced laborer  
11 in a formerly Jewish factory, and then on January 28, 1943 sent to Germany for forced labor for the  
12 remainder of the war. Plaintiff and one cousin were the only members of her family to survive the  
13 Ustasha purges of Orthodox Serbs in Croatia. All family property was confiscated by the Ustasha.  
14 Plaintiff eventually emigrated to the United States and became a citizen. Plaintiff currently resides in  
15 California.

16         61. Plaintiff Allen Dolfi Herskovich, born April 20, 1918, was an important sports figure in  
17 prewar Yugoslavia, representing his county in Vienna in 1937, in London in 1938, and Cairo in 1939  
18 in table tennis. With the invasion by Hitler in 1941 the team of five players dispersed to five different  
19 countries, plaintiff reaching Italy after five months with what remained of his family. In October 1943  
20 plaintiff was liberated by the Allies along with two brothers, but plaintiff lost his father and sister with  
21 her two small children in Auschwitz, while a brother was killed that year by the Ustasha. Plaintiff's  
22 father had been a very successful businessman in textile manufacturing, but all his property was looted  
23 by Ustasha and Germans. This property was valued by the Tito government in 1948 in excess of  
24 \$1,500,000 in prewar dollars. No compensation has ever been received by plaintiff. Plaintiff and his  
25 wife Dorothy and two sons presently reside in the San Francisco Bay Area, California.

26         62. Plaintiff Bogdan Kljaic's father Luka Kljaic lost his first wife and two children to the  
27 Ustasha from 1941 to 1943. Plaintiff's mother lost her first husband, Stojan Mitic, to the Ustasha, the  
28 same day that 700 Serbs were murdered in the Orthodox Church in Glina in 1941. Plaintiff's half-sister

1 Ljubica Kljaic, born 1927 in Strmen, was sent to Jasenovac in June 1941 at the age of 14, where she was  
2 tortured and killed. Plaintiff's older half-brother Bogdan Kljaic, born 1924 in Strmen, was killed by  
3 Ustasha in 1942 on a mountain top called Lebreonica near Kostajnica. Family and personal property was  
4 looted by the Ustasha. Plaintiff's parents afterwards met and married and had two children, Jelena Kljaic  
5 born in 1946, and plaintiff born in 1947. Plaintiff currently resides in Illinois.

6 63. Plaintiff David Levy was born April 12, 1922 in Belgrade. All of plaintiff's family property  
7 was taken in April 1941 by the Ustasha and plaintiff was made a forced laborer until he escaped in  
8 September 1941, after which his mother and brother and grandmother were murdered in concentration  
9 camps. Plaintiff was caught in January 1942, taken in chains to Italy, where he survived to become one  
10 of the 1,000 Jews allowed to come to the United States in August 1944. Plaintiff currently resides in the  
11 San Francisco Bay Area, California, with his wife Zdenka Baum Ruchwarger-Levy.

12 64. Plaintiff Zdenka Baum Ruchwarger-Levy was born September 15, 1925 in Zagreb. All of  
13 plaintiff's family property was taken in April 1941 including her father's metal furniture plant.  
14 Plaintiff's father was taken to Jasenovac but released after three weeks. In November 1941 plaintiff and  
15 her family fled into the mountains, were eventually captured and sent to Italy where they spent the next  
16 year and a half until freed by the Allies and brought to the United States. Plaintiff lost 11 relatives to  
17 the extermination camps. Plaintiff met and married plaintiff David Levy in 1985 and currently resides  
18 in the San Francisco Bay Area, California.

19 65. Plaintiff Vladan Celebonovic was born October 8, 1955 in Belgrade. Plaintiff's aunt, Alice  
20 Celebonovic, born in 1910, was undergoing medical treatment in Zagreb at the beginning of the war  
21 when she was murdered by the Ustasha about April 10, 1941 and her personal possessions including  
22 jewelry was looted. Plaintiff, her only heir, is a research physicist residing in Belgrade, Yugoslavia.

23 66. Plaintiff Desa Tomasevic Wakeman was born in Vocin, Croatia in 1923. In July 1941 she  
24 and her family including six brothers and sisters were taken by the Ustasha to Caprag, a concentration  
25 camp near Zagreb, where they joined several hundred other prominent Serbian families before being  
26 deported to Serbia. All family property, including a textile store and three homes, was confiscated by  
27 the Ustasha. In Caprag, money and other belongings including gold was taken away from plaintiff's  
28 mother and grandmother. Between 1942 and 1945 several members of plaintiff's family on her father's

1 side disappeared in Jasenovac and Stara Gradiska camps. Plaintiff resides in the San Francisco Bay  
2 Area, California.

3 67. Plaintiff Daniel Pyevich parents were born in Citluk, near Gospic, Lika, and emigrated to  
4 the United States in 1928. On plaintiff's father's side, in 1941 his father's mother, two brothers, the son  
5 and daughter of his sister, and the daughter of a brother were killed. Plaintiff's uncle Mile was killed  
6 in a brutal fashion by being thrown into the notorious Jadovno pit outside of Gospic, where hundreds  
7 of Serbs met their death. All of the property of these murdered relatives was looted by the Ustasha.  
8 Plaintiff resides in Hillside, Illinois.

9 68. Plaintiff Koviljka Popovic is the daughter of Bozo Kolak, a farmer of the village of Tulje,  
10 Trebinje, Bosnia and Herzegovina. In March 1944 while Bozo Kolak was in his fields with his 7 year  
11 old son Branko, Ustasha came upon them and killed Kolak and wounded Branko in both of his legs. The  
12 killers then burned down and looted his home entirely on the same day, the family thus losing all their  
13 worldly possessions to the Ustasha raiders. Branko Kolak survives as a pensioner in Tulje, along with  
14 a sister Slavka Kolak. Plaintiff resides in Smederevo, Yugoslavia.

15 69. Plaintiff Ukraine Organization of Ukrainian Antifascist Resistance Fighters is recognized  
16 by Ukrainian Ministry of Justice as an official representative of 8,500 former partisans and resisters of  
17 the Nazi occupation of Ukraine and concentration camp victims and as such has an interest in an  
18 accounting of the Ustasha Treasury. This membership includes some victims of the Croatian occupying  
19 forces in Ukraine.

20 70. Plaintiff Ukrainian Union of Nazi Victims and Prisoners represents over 300,000 former  
21 slave and forced laborers, prisoners, concentration camp, and ghetto survivors and as such has an  
22 interest in an accounting of the Ustasha Treasury. This membership includes some victims of the  
23 Croatian occupying forces in Ukraine.

24 71. Plaintiff Jasenovac Research Institute was established in 1998 as a non-profit (503-1) human  
25 rights organization and research institute registered in the state of Michigan, committed to establishing  
26 the truth about the Holocaust in Yugoslavia, dedicated to the search for justice for the crimes of  
27 genocide committed by the Ustasha Regime at the Jasenovac and Stara Gradiska concentration camp  
28 system and Ustasha persecution against Serbs, Jews, and Romas. The Jasenovac Research Institute's

1 membership includes Serb, Jewish, and Roma Holocaust survivors of the Ustasha terror in former  
2 Yugoslavia and their heirs including some of the Plaintiffs and has sponsored conferences and  
3 memorials for victims of the Ustasha in the United States, Serbia and Bosnia-Hercegovina. Jasenovac  
4 Research Institute has an interest in an accounting of the Ustasha Treasury.

5 72. Plaintiff International Union of Former Juvenile Prisoners of Fascism based in Kiev, Ukraine  
6 represents Nazi victims in the former Soviet Union including Ukraine, Russia, and Belarus and as such  
7 has an interest in an accounting of the Ustasha Treasury. This membership includes some victims of the  
8 Croatian occupying forces in the former Soviet Union.

9 73. The Republic of Serbian Krajina In Exile (RSK) is based in Zemun, Serbia under the  
10 leadership of Premier Milorad Buha who is also a deputy in the Serbian Parliament. The RSK is the  
11 legitimate continuation of The Republic of Serbian Krajina which exercised sovereignty over Krajina  
12 and Slavonia between 1991 and 1998 when the region was eventually overrun by Croatian army units  
13 and neo Ustasha paramilitaries in a series of invasions called Operation Storm and Operation Flash  
14 under the command of General Ante Gotavica now under indictment by the UN for war crimes and  
15 currently hiding in a Franciscan monastery in Croatia. Serb residents of modern Krajina and Slavonia  
16 were ethnically cleansed by murder, forced conversion to Roman Catholicism, or forced to flee to  
17 Serbia. The Ustasha previously committed atrocities against Serbs, Jews, and Roma in the same region  
18 1941-1945 when it was part of the NDH. The RSK represents the interests of all Serb, Jewish, and Roma  
19 Holocaust Survivors from Krajina, Western Srem, Baranja and Slavonia and as such has a direct interest  
20 in an accounting of the Ustasha Treasury.

## 21 VII. DEFENDANTS - VATICAN BANK (IOR)

22 74. Defendant Vatican Bank, also known by its official title *Istituto per le Opere di Religione*  
23 or Institute of Religious Works (“IOR”) has its principal place of business in Vatican City but conducts  
24 business and financial transactions in California, the United States and worldwide.

25 75. The Vatican Bank conducts commercial operations in the United States and California  
26 through servicing its American based account holders in the United States and California and  
27 maintaining correspondent banking accounts with other banks including Bank of America, Banca  
28 Nazionale de Lavoro, JP Morgan, Republic Bank of New York and Chase Manhattan.

1 76. The Vatican Bank engages in for-profit merchant banking transactions in the United States,  
2 California, and elsewhere through its investments and transactions including dealings in gold.

3 77. The Vatican Bank in 2001 was listed by a leading money laundering authority, the *Inside*  
4 *Fraud Bulletin*, as the world's number eight (8) destination for laundered money including \$55 billion  
5 dollars from Italy alone.

6 78. The Vatican Bank is headed by a President but also has an advisory panel consisting of  
7 prominent European and American bankers, a supervisory panel of Cardinals including Cardinal Maida  
8 of Detroit, Michigan and an executive board.

9 **VIII. DEFENDANTS - FRANCISCAN ORDER (OFM)**

10 79. Defendant Franciscan Order, also known as Order of Friars Minor (OFM) includes several  
11 Croatian Franciscan provinces and organizations in the United States, Croatia, Bosnia and Italy.

12 80. OFM world headquarters is in Rome under the auspices of the Holy See at the Vatican.

13 81. OFM's administrative structure is divided in geographically based Provinces including  
14 several in the United States.

15 82. The Croatian branch of OFM includes the OFM Provinces of Holy Cross (Sarajevo),  
16 Assumption of BM (Mostar), Province of St. Cyril and Methodius (Zagreb), Province of St. Jerome  
17 (Zadar), Province of the Holy Redeemer (Split)

18 83. The Croatian branch of OFM maintains substantial facilities in Chicago known as the  
19 Croatian Franciscan Custody of the Holy Family.

20 84. OFM maintains a Provincial headquarters in Oakland, California.

21 85. The OFM coordinated, operated, and managed the affairs of the Croatian Confraternity of  
22 the College of San Girolamo Degli Illirici 1946-1952 through its Chief Economist and General  
23 Definitor Dominic Mandic who was also the former Franciscan Provincial of Hercegovina. Numerous  
24 staff at the College of San Girolamo Degli Illirici were also Croatian Franciscans.

25 **IX. FACTS - COMMON ALLEGATIONS**

26 86. The Ustasha entered Zagreb on April 10, 1941 with Axis invaders and established the  
27 Independent State of Croatia (NDH).

28 87. Simultaneously with taking power, the Ustasha Regime instituted policies of persecution and

1 genocide against perceived enemies of the regime and in particular against Serbs, Jews, and Roma solely  
2 on racial and religious grounds.

3 88. The Ustasha regime maintained an organized policy of looting the assets of its persecution  
4 targets to finance its activities and personally enrich the ruling members of the Ustasha.

5 89. The looted assets were collected into central depositories controlled by the Ustasha and the  
6 Ustasha Regime.

7 90. The Ustasha Regime, like the Nazi Regime, maintained concentration camps and forced  
8 labor camps with appalling high mortality rates and confiscated and processed into the Ustasha Treasury  
9 the assets of its victims including gold teeth, wedding rings, and gold eyeglass frames.

10 91. Up to 700,000 victims were liquidated by the Ustasha in their bloody campaign to clear  
11 “Greater Croatia” of Serbs, Romani, and Jews.

12 92. The plundered and looted assets of the Ustasha victims were deposited in the Ustasha  
13 Treasury.

14 93. In May 1945 or soon thereafter, a significant portion of the Ustasha Treasury came into the  
15 possession of defendants with the fall of the Ustasha capital Zagreb and the Ustasha Regime to Tito’s  
16 Communist partisans.

17 94. Defendants helped to launder and convert the Ustasha Treasury post Second World War, so  
18 that it could be deposited in banks in Switzerland, Argentine, Spain, Portugal, Brazil, Canada, the  
19 United States and elsewhere and be distributed to the Ustasha leadership in exile including the  
20 *Poglavnik* Pavelic in Argentina and Spain and the former NDH Interior Minister Andrija Artukovic in  
21 California.

22 **X. FACTS PERTAINING TO SERB VICTIMS**

23 95. Upon the founding of the NDH, the Ustasha Regime immediately began a campaign to  
24 “purify” Croatia of those that the NDH Interior Minister Andrija Artukovic called “the insatiable  
25 parasites,” Serbs, Jews, and Roma.

26 96. By late April 1941 Serbs were forced to wear a white armband with the letter “P”, the initial  
27 for Orthodox Christian (*Pravoslavac*) in the Serbo-Croatian language.

28 97. The NDH *Doglavnik* (Deputy Leader) and government Minister, Mile Budac, stated in 1941

1 that the Ustasha Regime's policy towards the Serbs under its control was: To kill a third, expel a third  
2 from Croatia, and forcibly convert a third of the Serbian population to Roman Catholicism.

3 98. The Ustasha promoted this objective through the use of organized terror including mass  
4 murder, punitive raids and pogroms, concentration camp complexes, forced labor, deportations, forced  
5 conversion to Roman Catholicism and genocide.

6 99. Over 600,000 Serbs were murdered by the Ustasha between April 1941 and May 1945 and  
7 despoiled of their property.

#### 8 **XI. FACTS PERTAINING TO JEWISH VICTIMS**

9 100. In 1941, Jews in Croatia were largely urbanized and constituted one of the region's  
10 wealthiest groups.

11 101. By late April 1941 Jews had to wear the Star of David on their sleeves, and later, across  
12 their backs and were expelled from Zagreb by order of the Ustasha Regime's Minister of the Interior,  
13 Andrija Artukovic.<sup>2</sup>

14 102. The majority of Croatian Jews (upwards of 75%) were either murdered outright by the  
15 Ustasha or sent to Croatian or German concentration camps after having all their property confiscated.

16 103. Jews were ruthlessly hunted and exterminated save for the wealthiest 5% who were charged  
17 a sizable ransom for the "privilege" of being named honorary Aryans.<sup>3</sup>

18 104. This ransom greatly enriched the Ustasha treasury along with other funds and property  
19 extorted from the Jewish population of the NDH.

20 105. Approximately 30,000 Jews were liquidated by the Ustasha Regime.

#### 21 **XII. FACTS PERTAINING TO ROMA VICTIMS**

22 106. The Roma like the Serbs and Jews were the victims of Ustasha policies of institutionalized  
23

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24 <sup>2</sup> Artukovic resided in California for over 30 years before he was extradited in 1985 to face charges of murder  
25 in Yugoslavia. *In re Extradition of Andrija Artukovic*, 628 F.Supp. 1370 (C.D. Cal. 1985)

26 <sup>3</sup> Decree 76 of April 30, 1941 On Racial Affiliation: "Persons who prior to April 10, 1941 have shown  
27 themselves to be deserving before the Croatian people, especially toward its liberation, as well as their marital  
28 partners with whom they concluded marriage prior to the enactment of this decree and the descendants of  
such a marriage, in the event these persons may be affected by this decree, may receive recognition of all  
rights belonging to persons of Aryan descent at the discretion of the head of state, regardless of the provisions  
of this decree."

1 racism, genocide and looting.

2 107. Approximately 30,000 Roma were liquidated by the Ustasha Regime.

3 **XIII. FACTS PERTAINING TO CLAIMS BY FORMER SOVIET CITIZENS**

4 108. When Nazi Germany invaded Russia on June 22, 1941, the Ustasha leader, Ante Pavelic  
5 declared war on the Soviet Union on June 23, 1941 in order to join the battle of “all freedom loving  
6 nations against Communism.”

7 109. Pavelic offered ground, sea and air forces, to fight alongside Germany.

8 110. Hitler responded to Pavelic's letter on July 1, 1941, accepting the Croatian offer and  
9 thanking them for their service.

10 111. Beginning in July 1941, Croatian ground, sea, and air forces invaded the Soviet Union  
11 including Ukraine, Belarus, and Russia.

12 112. Croatian units wore German style uniforms with Croatian indicia and provided front line  
13 and support units in Ukraine, Belarus, and Russia.

14 113. Croatian air force and navy units patrolled the Black and Azov Seas in Russia and Ukraine.

15 114. Croatian ground troops took part in battles in Kiev, Kharkov, and Stalingrad.

16 115. In September 1942, Pavelic, on behalf of the Croatian government, visited Croatian troops  
17 outside Stalingrad.

18 116. Croatian troops assisted the German occupiers of Ukraine, Belarus, and Russia and  
19 participated in their systematic plunder and looting of Ukrainian, Russian, and Belorussian resources  
20 and individual property.

21 117. The Ustasha Treasury contained loot from the former Soviet Union.

22 **XIV. FACTS PERTAINING TO USTASHA CONCENTRATION CAMPS**

23 118. Jasenovac and Stara Gradiska Concentration Camp complexes, termed by historians as the  
24 “Auschwitz of the Balkans,” were the home of indescribable brutality against Serbs, Jews, and Roma.

25 119. The notorious Jasenovac camp was actually a complex of five major and three smaller  
26 “special” camps spread out over 240 square kilometers (150 square miles) in south-central Croatia.

27 120. Along with hundreds of thousands of Serbs, some 30,000 Jews and at least 30,000 Romas  
28 were murdered in these camps.

1 121. The names of some 20,000 murdered children of all three nationalities collected thus far  
2 by historians provides only a fraction of the crimes committed there against children.

3 122. The Ustasha at their concentration camps also looted from their victims their last remaining  
4 possession before being murdered including gold teeth, wedding rings, and gold eyeglass frames.

5 123. The loot from the Ustasha run concentration camp complexes comprised a significant part  
6 of the Ustasha Treasury.

7 **XV. FACTS PERTAINING TO THE USTASHA REGIME'S**  
8 **RELATIONSHIP WITH THE CATHOLIC CHURCH**

9 124. Many high officials of the Ustasha government were Roman Catholic clergy and, in  
10 particular, Franciscans.

11 125. The Vatican maintained an Apostolic Visitor in Zagreb, the Croatian capital from 1941 and  
12 until the end of the Second World War relations between the Vatican and the Ustasha Regime were  
13 cordial.

14 126. The Papal legate in Croatia was Monsignor Marcone, who openly blessed the Ustasha,  
15 publicly gave the Fascist salute, and transmitted instructions from Rome to the Croatian clergy and  
16 episcopacy, principally concerning the forced conversions of the Serb Orthodox Christians.

17 127. The Vatican Secretariat was aware of the atrocities being committed by the Ustasha.

18 128. The *Poglavnik* was received in a private audience by Pope Pius XII at the Vatican in late  
19 April 1941 when the atrocities against Serbs, Jews, and Roma were already underway.

20 129. In September 1941, a Royal Yugoslav emissary tried to meet with the Vatican Secretariat  
21 official Montini (later Pope Paul VI) with proof of the Ustasha atrocities but Montini refused to receive  
22 him.

23 130. Pavelic asked and received another audience with Pius XII in May 1943. Pius XII gave  
24 Pavelic his personal blessing again although by this time, the Holy See possessed abundant evidence  
25 of the atrocities committed by the Ustasha Regime.

26 **XVI. FACTS PERTAINING TO THE USTASHA REGIME'S RELATIONSHIP WITH OFM**

27 131. The Franciscan Order-OFM in Croatia was one of the prime sponsors of the Ustasha prior  
28 to the takeover in 1941, a partner in the crimes committed 1941-1945, and the exiled Ustasha leaders'

1 helpmates and partners after the Second World War.

2 132. The operational headquarters in which the plans for the Ustasha take-over of Croatia were  
3 made was a Franciscan-OFM monastery.

4 133. Monasteries, parish houses, cathedrals, Franciscan high schools, seminaries, etc.,  
5 throughout Croatia doubled as meeting places, recruiting centers, arms depots and staging areas for the  
6 Ustasha and terror in the years prior to the war.

7 134. Franciscan priests incited attacks on Serb and Roma settlements, tortured, killed and  
8 expropriated their victims in dozens of villages in Croatia and Bosnia.

9 135. In one typical example, the Franciscan Priest Shimich exhorted Croats to commit genocide:  
10 “All Serbs must be murdered within the shortest time. That is our program.”

11 136. One of the most notorious examples of the Franciscan clerical killers was Father Miroslav  
12 Filipovic-Majstorovic known as “Brother Satan” who personally killed tens of thousand of Serbs at  
13 Jasenovac concentration camp where he served as Commander for four months, from September 1942  
14 to the beginning of January 1943.

15 137. Brother Satan also directed numerous actions against Serbian villages in which he played  
16 a conspicuous part in the killings.

17 138. Before one such attack in the town of Drakulic, Brother Satan strangled a Serbian baby with  
18 his bare hands in order to incite the Ustasha to commit barbarities.

19 139. Brother Satan was hanged as a war criminal in 1946 by the Yugoslav government.

20 140. The Franciscan Order did not actively punish priests associated with the Ustasha during the  
21 Second World War despite knowledge of their activities.

22 **XVII. FACTS PERTAINING TO THE POST SECOND WORLD WAR ACTIVITIES OF OFM**

23 141. In the post war period OFM assisted Ustasha war criminals to evade justice by smuggling  
24 and laundering loot, hiding war criminals at Franciscan properties, providing false travel documents to  
25 the Ustasha and publishing Ustasha propaganda in Italy, the United States, and elsewhere.

26 142. Upon the demise of the Ustasha Regime in May 1945, a substantial portion of the Ustasha  
27 Treasury was transferred to its Croatian Franciscan allies for transport to Rome and elsewhere where  
28 Croatian Franciscans sympathetic to the Ustasha were based.

1 143. The center of Ustasha activity in post war Rome through the 1950's was the Croatian  
2 Confraternity of San Girolamo at the College of San Girolamo Degli Illirici headed by the Franciscan  
3 Fr. Dominik Mandic, OFM (the former Franciscan Provincial of Herzegovina) and by Fr. Krunoslav  
4 Draganovic until 1959 at the same institution.

5 144. Using funds from the Ustasha Treasury, Mandic, Draganovic, and the Croatian  
6 Confraternity of San Girolamo provided means including but not limited to money laundering services,  
7 false identity papers for Croatian exiles, so called "scholarships" that permitted postwar Ustasha  
8 operatives to travel freely to Rome and provided safe-houses for wanted Ustasha war criminals in Rome.

9 145. The Confraternity received and retained a portion of the Ustasha Treasury post war for its  
10 work with the Ustasha exiles.

11 146. In 1952 Mandic relocated his pro Ustasha activities to Chicago as the Croatian Franciscan  
12 Custody under the jurisdiction of the Croatian Franciscan (OFM) Province of Hercegovina of the  
13 Franciscan Order.

14 147. The Croatian Franciscan Custody of Chicago utilizing funds from the Ustasha Treasury set  
15 up publishing and printing operations in Chicago to publish books and propaganda glorifying the  
16 Ustasha and their bizarre racial theories and to provide aid Ustasha exiles.

17 148. OFM, the Croatian Franciscan Custody of Chicago, and the Croatian Confraternity of San  
18 Girolamo all profited from their access to Ustasha Treasury funds through IOR accounts and other  
19 means.

20 **XVIII. FACTS PERTAINING TO THE USTASHA TREASURY, IOR & OFM**

21 149. The Ustasha regime was financially sophisticated in its dealings.

22 150. During the Second World War the Swiss National Bank and accounts in Switzerland in  
23 addition to facilities in Croatia acted as depositories for some of the Ustasha Treasury.<sup>4</sup>

24 151. The Independent Commission of Experts - Switzerland - Second World War, known as the  
25 Bergier Commission, linked Swiss banks with Croatian wartime gold transactions (p. 25 of their report).

26 \_\_\_\_\_  
27 <sup>4</sup> 500 kilograms of gold were deposited by the Croatians in the Swiss National Bank along with 2.5 million  
28 francs during the Second World War. In 1946 an additional 12 to 16 million francs in gold deposits were still  
controlled by the Ustasha in Swiss bank accounts reflecting post war additions from the IOR and OFM.

1 152. With the fall of the Ustasha Regime imminent in 1945, an effort was made to move the  
2 Ustasha Treasury to safety outside the NDH to the IOR and Swiss banks.

3 153. In May 1945 Ustasha operatives were found at the British-occupied Austro-Swiss border  
4 with gold, currency and other assets valued at 350 million Swiss francs.

5 154. More than 200 million Swiss francs value of this particular hoard were eventually  
6 transferred to Vatican City and the College of San Girolamo Degli Illirici and then to the IOR for  
7 conversion. One shipment of a portion of the Ustasha Treasury consisting of a ten truck convoy was  
8 commanded by Ustasha Colonel Ivan Babic from Northern Italy to the College of San Girolamo Degli  
9 Illirici in 1946.

10 155. In 1948 2,400 kilos of Ustasha Treasury gold was moved from the IOR to Swiss bank  
11 accounts.

12 156. In 1952 Pavelic, the Ustasha leader, transferred 5 million Swiss francs from Switzerland  
13 to Argentina.

14 157. The pattern of transfer of Ustasha Treasury gold assets which were directly deposited in  
15 Switzerland during the Second World continued after the end of the war through the intermediation and  
16 money laundering of IOR and OFM.

17 158. Post Second World War transfer of funds and financial transactions were made by IOR to  
18 Switzerland and elsewhere using various accounts including those controlled by OFM.

19 159. A significant portion of the post war Ustasha Treasury was in the form of jewels, gold  
20 coins, and gold jewelry and was converted first by the IOR and OFM before being transferred to Swiss  
21 accounts.

22 160. Ustasha Treasury assets were banked and converted by the IOR for use in Argentina, Brazil,  
23 Spain, the United States and elsewhere by the exiled Ustasha and the Croatian Franciscans.

24 **XIX. FACTS PERTAINING TO POST WAR BENEFICIARIES OF THE USTASHA TREASURY**

25 161. In 1956 the overt successor to the Ustasha, the Croatian Liberation Movement (HOP), was  
26 founded by Ante Pavelic in Buenos Aires as a beneficiary of the Ustasha Treasury along with its  
27 terrorist front group - the Croatian Revolutionary Brotherhood (HRB) and related organizations.

28 162. Croatian Franciscans (OFM) have continued to use the funds derived from the Ustasha

1 treasury to set up the OFM operations at Medjugorje, Bosnia and to support the Croatian paramilitary,  
2 who often used Ustasha indicia in their ethnic cleansing battles against Bosnian Serbs, Muslims, and  
3 Roma in Bosnia-Hercegovina and Serbian Krajina in the 1990's.

4 163. As the principal post war banker to the Ustasha Government in Exile, the IOR profited from  
5 Ustasha Treasury transactions involving banks in various European and South American countries.

6 164. The Franciscan Order reaped similar monetary benefits from their involvement with the  
7 Ustasha Treasury including transfer of funds from the Ustasha treasury in exchange for services.

8 165. Possession of the Ustasha Treasury greatly enhanced the Vatican Bank's position as a post  
9 war gold trader on both public and private markets.

10 166. In the United States known IOR gold deposits at the Federal Reserve Bank in New York  
11 and transactions through the Republic Bank of New York continued through the 1960's in which gold,  
12 including gold from the Ustasha Treasury was sold and/or deposited in the United States.

13 **XX. CLASS ALLEGATIONS**

14 167. This action is brought and may properly be maintained as a class action pursuant to the  
15 provisions of FEDERAL RULE OF CIVIL PROCEDURE 23.

16 168. Plaintiffs bring this action on behalf of themselves and a class of all Jews, Serbs, Roma and  
17 former Soviet Union citizens and their heirs and beneficiaries who suffered monetary and/or property  
18 losses due to the systematic and brutal extermination of Jews, Serbs, and Roma by the Nazi puppet  
19 Ustasha Regime, and as a result of the occupation of the Soviet Union by Ustasha military forces.

20 169. The exact number of the members of the class, as identified above, is not known to  
21 plaintiffs, but it is estimated that members of the class number in the tens of thousands<sup>5</sup> and are so  
22 numerous that joinder of individual members herein is impracticable.

23 170. Questions of fact and law common to the class predominate over any questions affecting  
24 only individual members. Common questions of fact and law include:

25 (a) Whether the IOR and OFM improperly retained or converted looted assets of the plaintiffs.

26 \_\_\_\_\_  
27 <sup>5</sup> Plaintiffs have revised downward their original estimate of the class due to the passage of time since the  
28 filing of this lawsuit in 1999 and the deaths of thousands if not tens of thousands of Holocaust survivors in  
the meantime.

1 (b) Whether defendants were unjustly enriched by their wrongful conduct.

2 (c) Whether plaintiffs experienced irreparable harm by defendants' wrongful taking of plaintiffs'  
3 property and goods, supporting a claim for restitution.

4 (d) Whether defendants have failed to account for the Ustasha Treasury by fraudulently and/or  
5 intentionally concealing and/or limiting access to their archives and records .

6 (e) Whether defendants were directly and/or indirectly involved with the conversion of plaintiffs'  
7 property in violation of international law.

8 (f) Whether defendants should disgorge any profits resulting from their dealings with the Ustasha  
9 Treasury.

10 171. Plaintiffs' claims are typical of the claims of the other members of the Class, since all such  
11 claims arise out of defendants' actions or the actions of its agents, which resulted in the loss and  
12 conversion of plaintiffs' and their ancestors' rightful property, which gives plaintiffs the right to the  
13 relief sought.

14 172. There is no conflict as between the named plaintiffs and the members of the class which  
15 they represent with respect to this action, or with respect to the claims for relief set forth herein.

16 173. Plaintiffs are committed to the vigorous prosecution of this action and have retained  
17 competent counsel experienced in the prosecution of class actions. Accordingly, plaintiffs are adequate  
18 representatives of the Class and will fairly and adequately protect the interests of the Class.

19 174. The prosecution of separate actions by individual members of the Class would create a risk  
20 of inconsistent or varying adjudications, which would establish incompatible standards of conduct for  
21 the defendants in this action.

22 175. Plaintiffs anticipate that there will be no difficulty in the management of this litigation. A  
23 class action is superior to other available methods for fair and efficient adjudication of the controversy.  
24 Accordingly, Certification of the plaintiff class is appropriate under FED. R. CIV. P. 23(b)(1), (2) and/or  
25 (3).

26 **XXI. LEGAL AND EQUITABLE TOLLING & ESTOPPEL**

27 176. Plaintiffs' legal right to seek compensation for genocide, war crimes and crimes against  
28 humanity during the Second World War is preserved by the Convention on the Non-Applicability of

1 Statutory Limitations to War Crimes and Crimes Against Humanity (26 November 1968) and  
2 accordingly, there are no statutory limitations on claims of war crimes, crimes against humanity, or  
3 genocide.

4 177. Furthermore, plaintiffs' legal right to seek compensation for property seized during the  
5 Second World War was deferred by the London Debt Settlement Agreement of 1953, until the German  
6 court ruled, on November 7, 1997, that the Treaty on the Final Settlement with Germany had lifted the  
7 moratorium upon individual claims for compensation for World War II losses. Accordingly, statutes of  
8 limitation upon claims for compensation for World War II losses were tolled by operation of treaty from  
9 1953 through November 7, 1997.

10 178. No statute of limitations has begun to run on the cause of action stated herein because  
11 plaintiffs and defendants' victims have remained unaware of defendants' misconduct beginning after  
12 the fall of the Ustasha Regime and have been denied access to vital information essential to pursue the  
13 stated claims as a result of defendants' fraudulent, willful and intentional concealment of their  
14 misconduct, without any fault or want of diligence or due care on the part of plaintiffs or defendants'  
15 victims.

16 179. Evidence of the extent of the defendants' participation in wrongdoing has more fully come  
17 to light in recent years as a result of the disclosure of archived and declassified documents in the United  
18 States, Germany and other countries, as well as from the reports of several commissions and/or task  
19 forces created in the United States, Germany and other countries, much of which information was not  
20 available prior to the reunification of Germany and the dissolution of the Soviet Union and Yugoslavia.

21 180. Moreover, knowing that its behavior violated international law, at no time since the end of  
22 World War II have defendants made any reasonable attempt to compensate plaintiffs and members of  
23 the Class for their injuries and losses. Such failure should estop defendants from interposing any time  
24 bar defense to these claims.

25 181. Additionally, no statute of limitations has begun to run on the cause of action stated herein  
26 because defendants' misconduct is continuing; defendants have not made any reasonable attempt to  
27 disgorge their illicit profits or compensate victims of the Ustasha Regime or their Nazi supporters.  
28 Defendants have continued to reap profits as a result of their actions and have refused all requests by

1 governments and international organizations for an accounting of the funds in question. Defendants are  
2 therefore estopped from interposing any type of time bar defense to these claims.

3 **XXII. CAUSES OF ACTION**

4 **FIRST CAUSE OF ACTION - ACCOUNTING**

5 182. Plaintiffs reallege and incorporate herein, as though fully set forth, the allegations of all  
6 preceding paragraphs of the Complaint.

7 183. Defendants have never accounted for or paid the value of plaintiffs' property or the profits  
8 which defendants have derived from that property since end of the Second World War.

9 184. As a result of the value of their property having been forcibly taken from them, against their  
10 will and without just payment by defendants, plaintiffs have been unable to use or invest those assets.

11 185. As a result of defendants' aforesaid wrongful acts and omissions, plaintiffs have been  
12 injured and damaged and demand the equitable remedy of accounting.

13 **SECOND CAUSE OF ACTION - CONVERSION**

14 186. Plaintiffs reallege and incorporate herein, as though fully set forth, the allegations of all  
15 preceding paragraphs of the Complaint.

16 187. As a result of defendants' failure and refusal to account for, acknowledge and pay to  
17 plaintiffs the value of the property taken, defendants, and each of them, have willfully and wrongfully  
18 misappropriated and converted the value of that property and its derivative profits into their own  
19 property.

20 188. As a result of defendants' wrongful acts and omissions, plaintiffs have been injured and  
21 damaged and demand restitution and judgment against defendants, in an amount to be determined at  
22 trial.

23 189. Defendants' conduct described herein was undertaken by the defendants' officers or  
24 managing agents who were responsible for decisions. The aforesaid conduct of said managing agents  
25 and individuals was therefore undertaken for and on behalf of defendants. Said defendants further had  
26 advance knowledge of the actions and conduct of said individuals whose actions and conduct were  
27 ratified, authorized and approved by defendants' managing agents and by other officers, directors or  
28 managing agents.

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**THIRD CAUSE OF ACTION - UNJUST ENRICHMENT**

190. Plaintiffs reallege and incorporate herein, as though fully set forth, the allegations of all preceding paragraphs of the Complaint.

191. Defendants received, retained and made use of stolen property given to them by members of the Ustasha Regime, which rightfully belongs to plaintiffs.

192. Defendants have failed to account for and/or pay to plaintiffs the value of their property and profits derived therefrom.

193. As a result of defendants' wrongful acts and omissions, defendants have been unjustly enriched to the detriment of plaintiffs.

194. Plaintiffs therefore demand restitution and judgment against defendants in an amount to be determined at trial, together with interest, attorneys' fees, and the costs of this action.

**FOURTH CAUSE OF ACTION - RESTITUTION**

195. Plaintiffs reallege and incorporate herein, as though fully set forth, the allegations of all preceding paragraphs of the Complaint.

196. Plaintiffs' goods and property have been taken, thus denying plaintiffs the use and enjoyment thereof; defendants have wrongfully used and profited from that property; and compensation in damages is inadequate in that the property taken cannot be replaced and the harm inflicted cannot be undone by mere compensation.

197. As a result of defendants' wrongful acts and omissions, plaintiffs have been injured and damaged and demand equitable remedies.

**FIFTH CAUSE OF ACTION - VIOLATIONS OF INTERNATIONAL LAW**

198. Plaintiffs reallege and incorporate herein, as though fully set forth, the allegations of all preceding paragraphs of the Complaint.

199. Defendants violated customary international law actionable in this Court as federal common law and the law of nations as evidenced by various sources including but not limited to: The Hague Convention of 1907, The Treaty of Versailles (1919), The United Nations Charter and the Universal Declaration of Human Rights.

200. As a result of the value of their property having been forcibly taken from them, against their

1 will and then converted, concealed, and utilized without just payment by defendants, plaintiffs have  
2 been unable to use or invest those assets.

3 201. As a result of defendants' aforesaid wrongful acts and omissions, plaintiffs have been  
4 injured and damaged and demand the equitable, declaratory, and such other relief which is available to  
5 them under the applicable principles of international law

6 **XXIII. PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiffs pray that the Court:

8 1. Certify this action as a class action pursuant to FEDERAL RULE OF CIVIL PROCEDURE 23, and  
9 designating named plaintiffs as the class representatives and counsel for plaintiffs as Class counsel.

10 2. Declare that defendants by trafficking in, laundering, retaining, hypothecating, profiting from,  
11 disposing of and concealing assets looted from targets of the Ustasha Regime with knowledge that the  
12 assets had been obtained through systematic persecution, torture, slave labor, force, and murder, violated  
13 international treaties and customary international law enforceable in this Court as federal common law,  
14 the law of the nations and international law.

15 3. Order defendants to make available all information relating to the Ustasha Treasury including  
16 the inflows to the defendants and outflows from the defendants of such assets; with a particular view  
17 to establishing the existence and/or ultimate disposition of assets held by defendants belonging to  
18 Holocaust Victims; and in order that an accounting of assets may be realized.

19 4. Direct defendants to catalog and return all remaining identifiable property looted from  
20 plaintiffs and received by defendants.

21 5. Award plaintiffs the value of any identified property deposited by, or looted from, plaintiffs  
22 and received or transferred by defendants plus interest compounded annually since when received by  
23 defendants but in no event earlier than June 1, 1945.

24 6. Award plaintiffs compensatory and punitive damages arising out of defendants' unlawful  
25 behavior in trafficking in, retaining, disposing and concealing Looted Assets or profits of the Ustasha  
26 Regime with knowledge that the assets or profits were the fruits of Nazi-Ustasha violations of  
27 international law and were used to assist war criminals to evade justice.

28 7. Order defendants to disgorge any profits earned by trafficking in, disposing of or concealing

1 the Ustasha Treasury which was the fruits of violations of international law.

2 8. Grant plaintiffs a jury trial on all issues so triable.

3 9. Award plaintiffs the costs of this action, including attorney and expert fees; and other  
4 reasonable expenses,

5 10. Grant such other and further relief as shall seem just to the Court.

6 DATED: \_\_\_\_\_ .

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THOMAS EASTON  
Of Attorneys for Plaintiffs

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\_\_\_\_\_  
JONATHAN H. LEVY  
Attorney for Plaintiff and the Class

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\_\_\_\_\_  
K. LEE BOYD  
Of Counsel

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WINDLE TURLEY  
Of Attorneys for Plaintiffs

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**CERTIFICATE OF SERVICE**

Windle Turley hereby certifies that he is a pro hac vice member in good standing of the bar of this court and has served **PLAINTIFFS' FOURTH AMENDED CLASS ACTION COMPLAINT** by electronic service (or U.S. Postal Service postage prepaid for Chambers Copy) at the following email addresses:

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I declare under penalty of perjury that the foregoing is true and correct, and that this certificate was executed in Dallas, Texas on January 13, 2006.

\_\_\_\_\_/s/\_\_\_\_\_  
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