

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:09-cv-03706-CM-THK

Grosz et al v. the Museum of Modern Art et al
Assigned to: Judge Colleen McMahon
Referred to: Magistrate Judge Theodore H. Katz
Cause: 28:1332 Diversity-Property Damage

Date Filed: 04/10/2009
Jury Demand: None
Nature of Suit: 380 Personal Property:
Other
Jurisdiction: Diversity

Date Filed	#	Docket Text
09/18/2009		Minute Entry for proceedings held before Magistrate Judge Theodore H. Katz: Discovery Hearing held on 9/18/2009. (mro) (Entered: 09/24/2009)
08/31/2009	<u>43</u>	ENDORSED LETTER addressed to Magistrate Judge Theodore H. Katz from Raymond J. Dowd dated 8/21/2009 re: We represent plaintiffs Martin and Lilian Grosz. We write pursuant to an order of reference from the Hon. Colleen McMahon dated July 9, 2009. We write with respect to defendant the Museum of Modern Art ("MoMA")'s failure to provide discovery. We respectfully submit that the Grosz heirs are entitled to the requested documents, that such document requests are narrowly-tailored, and that such requests relate directly necessary to our claims and defenses. We have been cooperative with MoMA in all respects in trying to minimize any burdens on them. But in the end, the MoMA is a taxpayer-financed institution that has already told the world that it has made all Holocaust-era provenance records public. ENDORSEMENT: Plaintiffs application to appeal production of addition documents relating to paintings that are not in issues is denied. The discovery plaintiffs seek is at most, highly tangential to the matters in issue. They will shed no light on whether MOMA legitimately acquired title to the paintings in issue. Moreover, the burden entailed in responding to the request far exceeds the probative value of the material being sought. SO ORDERED. (Signed by Magistrate Judge Theodore H. Katz on 8/31/2009) (jmi) (Entered: 09/01/2009)
08/11/2009	<u>42</u>	ENDORSED LETTER addressed to Judge Colleen McMahon from Raymond J. Dowd dated 8/11/2009 re: Counsel writes to request an adjournment of the 9/11/2009 Rule 16 conference. ENDORSEMENT: Conference adjourned to 10/2/09 @ 9:30 am. (Signed by Judge Colleen McMahon on 8/11/2009) (tve) (Entered: 08/11/2009)
08/06/2009	41	TRANSCRIPT of proceedings held on 7/29/09 before Magistrate Judge Theodore H. Katz. (pl) (Entered: 08/11/2009)
08/06/2009	<u>40</u>	NOTICE of Compliance with Rule 6 of Judge McMahon's Rules Governing Electronic Discovery. Document filed by The Museum of Modern Art. (Attachments: # <u>1</u> Certificate of Service)(Dale, Margaret) (Entered: 08/06/2009)
07/29/2009	<u>39</u>	ORDER CONCERNING CONFIDENTIALITY OF DOCUMENTS AND MATERIALS regarding procedures regarding procedures that shall govern the handling of confidential information during the course of these proceedings. (Signed by Magistrate Judge Theodore H. Katz on 7/29/09) (djc) (Entered: 07/29/2009)
07/16/2009	<u>38</u>	CALENDAR NOTICE (Pretrial Conference (Rule 16) set for 9/11/2009 at 09:45 AM in Courtroom 14C, 500 Pearl Street, New York, NY 10007 before Judge Colleen McMahon.) (Signed by Judge Colleen McMahon on 7/16/09) (djc) (Entered: 07/16/2009)
07/15/2009	<u>37</u>	ENDORSED LETTER addressed to Magistrate Judge Theodore H. Katz from Margaret A. Dale dated 7/14/2009 re: Counsel for defendant writes regarding the discovery dispute raised by Plaintiff in their 7/8/2009 correspondence to Judge Colleen McMahon. ENDORSEMENT: The Court will not require the production of these documents. The request is overbroad and burdensome. So ordered. (Signed by Magistrate Judge Theodore H. Katz on 7/15/2009) (tve) (Entered: 07/15/2009)

07/13/2009	<u>36</u>	AMENDED CIVIL CASE MANAGEMENT PLAN: Amended Pleadings due by 7/15/2009. Joinder of Parties due by 7/15/2009. All Discovery, including expert discovery, due by 10/20/2009. Joint Pretrial Order due by 12/11/2009. (Signed by Magistrate Judge Theodore H. Katz on 7/13/09) (tro) (Entered: 07/13/2009)
07/09/2009	<u>35</u>	ENDORSED LETTER addressed to Judge Colleen McMahon from Raymond J. Dowd dated 7/8/2009 re: Requesting an extension of Plaintiff's deadline for submission of an expert report until September 15, 2009. ENDORSEMENT: Take this to the Magistrate ASAP. (Signed by Judge Colleen McMahon on 7/9/2009) (jpo) (Entered: 07/09/2009)
07/09/2009	<u>34</u>	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Specific Non-Dispositive Motion : Discovery Dispute. Referred to Magistrate Judge Theodore H. Katz. (Signed by Judge Colleen McMahon on 7/9/2009) (jpo) (Entered: 07/09/2009)
07/08/2009	<u>33</u>	CERTIFICATE OF SERVICE of Corrected Version of the Declaration of Louis M. Solomon with Exhibits in connection with the Motion of Defendant The Museum of Modern Art to Dismiss the Amended Complaint served on David John Rowland, Esq. of Rowland & Petroff on 7/8/09. Service was made by Electronic Mail. Document filed by The Museum of Modern Art. (Solomon, Louis) (Entered: 07/08/2009)
07/08/2009	<u>32</u>	DECLARATION of Louis M. Solomon in Support re: <u>13</u> MOTION to Dismiss <i>with prejudice the Amended Complaint.</i> Document filed by The Museum of Modern Art. (Attachments: # <u>1</u> Exhibit A)(Solomon, Louis) (Entered: 07/08/2009)
07/01/2009	<u>31</u>	CERTIFICATE OF SERVICE of Defendant's Reply Memorandum in Support of its Motion to Dismiss the "First Amended Complaint", The Reply Declaration of Professor Dr. IUR Wolfgang Ernst and the Reply Declaration of Louis M. Solomon with Exhibit in further support of Motion of Defendant the Museum of Modern Art to Dismiss the Amended Complaint served on David John Rowland, Esq. on July 1, 2009. Service was made by Electronic Mail. Document filed by The Museum of Modern Art. (Solomon, Louis) (Entered: 07/01/2009)
07/01/2009	<u>30</u>	RESPONSE in Support re: <u>13</u> MOTION to Dismiss <i>with prejudice the Amended Complaint. Reply Declaration of Professor Dr. IUR. Wolfgang Ernst.</i> Document filed by The Museum of Modern Art. (Solomon, Louis) (Entered: 07/01/2009)
07/01/2009	<u>29</u>	RESPONSE in Support re: <u>13</u> MOTION to Dismiss <i>with prejudice the Amended Complaint. Reply Declaration of Louis M. Solomon.</i> Document filed by The Museum of Modern Art. (Attachments: # <u>1</u> Exhibit F)(Solomon, Louis) (Entered: 07/01/2009)
07/01/2009	<u>28</u>	REPLY MEMORANDUM OF LAW in Support re: <u>13</u> MOTION to Dismiss <i>with prejudice the Amended Complaint.</i> Document filed by The Museum of Modern Art. (Solomon, Louis) (Entered: 07/01/2009)
06/25/2009	<u>27</u>	AFFIDAVIT OF SERVICE of Memorandum of Law in Opposition to Motion to Dismiss the First Amended Complaint; Declaration of Raymond Dowd in Opposition to Motion to Dismiss with exhibits thereto; Declaration of Dr. Jonathan Petropoulos in Opposition to Motion to Dismiss with exhibits thereto; Declaration of Dr. Gordian Hasselblatt in Opposition to Motion to Dismiss with exhibits thereto served on MoMA on June 25, 2009. Service was made by E-Mail. Document filed by Martin Grosz, Lilian Grosz. (Dowd, Raymond) (Entered: 06/25/2009)
06/25/2009	<u>26</u>	DECLARATION of Dr. Gordian Hasselblatt in Opposition re: <u>13</u> MOTION to Dismiss <i>with prejudice the Amended Complaint.</i> Document filed by Martin Grosz, Lilian Grosz. (Attachments: # <u>1</u> Exhibit A-D)(Dowd, Raymond) (Entered: 06/25/2009)
06/25/2009	<u>25</u>	DECLARATION of Dr. Jonathan Petropoulos in Opposition re: <u>13</u> MOTION to Dismiss <i>with prejudice the Amended Complaint.</i> Document filed by Martin Grosz, Lilian Grosz. (Attachments: # <u>1</u> Exhibit A-B)(Dowd, Raymond) (Entered: 06/25/2009)
06/25/2009	<u>24</u>	DECLARATION of Raymond J. Dowd in Opposition re: <u>13</u> MOTION to Dismiss <i>with prejudice the Amended Complaint.</i> Document filed by Martin Grosz, Lilian Grosz. (Dowd, Raymond) (Entered: 06/25/2009)

06/25/2009	<u>23</u>	MEMORANDUM OF LAW in Opposition re: <u>13</u> MOTION to Dismiss <i>with prejudice the Amended Complaint</i> .. Document filed by Martin Grosz, Lilian Grosz. (Dowd, Raymond) (Entered: 06/25/2009)
06/11/2009	<u>22</u>	CERTIFICATE OF SERVICE of Supplemental Declaration of Professor Dr. iur. Wolfgang Ernst and Supplemental Declaration of Professor E.J.H. Schrage by electronic mail served on David John Rowland, Esq. on 6/11/2009. Document filed by The Museum of Modern Art. (Jones, Jennifer) (Entered: 06/11/2009)
06/11/2009	<u>21</u>	DECLARATION of Supplemental Declaration of Professor E.J.H. Schrage in Support re: <u>13</u> MOTION to Dismiss <i>with prejudice the Amended Complaint</i> .. Document filed by The Museum of Modern Art. (Attachments: # <u>1</u> Exhibit C & D)(Solomon, Louis) (Entered: 06/11/2009)
06/11/2009	<u>20</u>	DECLARATION of Supplemental Declaration of Professor Dr. iur. Wolfgang Ernst in Support re: <u>13</u> MOTION to Dismiss <i>with prejudice the Amended Complaint</i> .. Document filed by The Museum of Modern Art. (Attachments: # <u>1</u> Exhibit D & E)(Solomon, Louis) (Entered: 06/11/2009)
06/10/2009	<u>19</u>	STIPULATION AND ORDER: Plaintiffs' opposition papers to Defendant's Motion to Dismiss shall be served by the close of business no later than June 25, 2009; and Defendant's reply papers shall be served by the close of business no later than July 3, 2009. (Signed by Judge Colleen McMahon on 6/10/09) (db) (Entered: 06/10/2009)
06/04/2009	<u>18</u>	CERTIFICATE OF SERVICE of, by electronic mail, Defendant MoMA's Notice of Motion to Dismiss with prejudice the Amended Complaint, Memorandum of Law in Support, Declaration of Louis M. Solomon, Esq., in Support, Declaration of Professor Dr. iur. Wolfgang Ernst in Support, and Declaration of Professor E.J.H. Schrage in Support served on David John Rowland, Esq., at Rowland & Petroff on 6/4/2009. Document filed by The Museum of Modern Art. (Jones, Jennifer) (Entered: 06/04/2009)
06/04/2009	<u>17</u>	DECLARATION of Professor E.J.H. Schrage in Support re: <u>13</u> MOTION to Dismiss <i>with prejudice the Amended Complaint</i> .. Document filed by The Museum of Modern Art. (Attachments: # <u>1</u> Exhibit A – B)(Solomon, Louis) (Entered: 06/04/2009)
06/04/2009	<u>16</u>	DECLARATION of Professor Dr. iur. Wolfgang Ernst in Support re: <u>13</u> MOTION to Dismiss <i>with prejudice the Amended Complaint</i> .. Document filed by The Museum of Modern Art. (Attachments: # <u>1</u> Exhibit A – C)(Solomon, Louis) (Entered: 06/04/2009)
06/04/2009	<u>15</u>	FILING ERROR – DEFICIENT DOCKET ENTRY – MISSING PAGES FROM EXHIBIT – SEE DOC. #32 – DECLARATION of Louis M. Solomon, Esq. in Support re: <u>13</u> MOTION to Dismiss <i>with prejudice the Amended Complaint</i> .. Document filed by The Museum of Modern Art. (Attachments: # <u>1</u> Exhibit A – E)(Solomon, Louis) Modified on 7/13/2009 (kco). (Entered: 06/04/2009)
06/04/2009	<u>14</u>	MEMORANDUM OF LAW in Support re: <u>13</u> MOTION to Dismiss <i>with prejudice the Amended Complaint</i> .. Document filed by The Museum of Modern Art. (Solomon, Louis) (Entered: 06/04/2009)
06/04/2009	<u>13</u>	MOTION to Dismiss <i>with prejudice the Amended Complaint</i> . Document filed by The Museum of Modern Art. Responses due by 6/18/2009(Solomon, Louis) (Entered: 06/04/2009)
06/02/2009	<u>12</u>	ENDORSED LETTER addressed to Judge Colleen McMahon from Louis M. Solomon dated 6/2/09 re: Counsel for Defendant The Museum of Modern Art write to jointly request that Your Honor approve the following briefing schedule on the motion: MoMA intends to file the motion by 6/4/09 (which is on an accelerated basis, since Plaintiff just filed an Amended Complaint on 5/29/09); Plaintiffs would serve and file any opposition by 6/26/09; and MoMA would serve and file any reply papers by 7/8/09. If Your Honor does not feel that this schedule will give the Court sufficient time to consider MoMA's motion in advance of the conference now scheduled for 7/17/09, then MoMA requests that the Court direct the parties to adhere to the 14–day; 1 –week schedule set forth in the operative Scheduling Order, with opposition papers due on June 18 and reply papers due on June 25. ENDORSEMENT: I really can't commit myself. Especially in view of foreign law. I like your expedited schedule but I have a busy schedule. (Signed by Judge Colleen McMahon on 6/2/09) (tro) (Entered: 06/02/2009)

05/29/2009	<u>11</u>	FIRST AMENDED COMPLAINT amending <u>1</u> Complaint against Republican Automaton, the Museum of Modern Art, Portrait of The Poet Max Herrmann-Neisse, Self-Portrait with Model and Republican Automaton. Document filed by Martin Grosz, Lilian Grosz. Related document: <u>1</u> Complaint filed by Lilian Grosz, Martin Grosz. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit)(dle) (Entered: 05/29/2009)
05/27/2009	<u>10</u>	STIPULATION AND ORDER: THE PARTIES HERETO, through their respective counsel of record, hereby stipulate and agree as follows: The parties agree that expert-related discovery in these proceedings shall be governed by this stipulation. To the extent that this stipulation imposes limitations on discovery which otherwise would be available under the Federal Rules of Civil Procedure, the parties have agreed to such limitations. This stipulation does not imply that any of the information restricted from discovery in this stipulation would otherwise be discoverable. No subpoenas (for depositions or documents) need be served on any expert identified pursuant to Rule 26(a) of the Federal Rules of Civil Procedure as one likely to be called to testify and from whom a report is provided (a "Testifying Expert") Instead, the party or parties retaining such Testifying Expert will make him or her available for deposition in New York City, at a time mutually agreed to by the parties, consistent with the Court's scheduling orders, and will produce the expert's documents, as outlined below. Unless otherwise agreed between the parties, depositions of Testifying Experts will be held at the office of counsel for the party taking the deposition. (Signed by Judge Colleen McMahon on 5/27/2009) (jfe) (Entered: 05/27/2009)
05/21/2009	<u>9</u>	CIVIL CASE MANAGEMENT PLAN: Amended Pleadings due by 7/15/2009. Joinder of Parties due by 7/15/2009. that all discovery, including expert discovery, must be completed on or before October 20, 2009. A joint pre-trial order in the form prescribed in Judge McMahon's individual rules, together with all other pre-trial submissions required by those rules (not including in limine motions), shall be submitted on or before 12/4/2009. (Signed by Judge Colleen McMahon on 5/21/09) (pl) (Entered: 05/21/2009)
05/07/2009	<u>8</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by the Museum of Modern Art.(Solomon, Louis) (Entered: 05/07/2009)
05/04/2009	<u>7</u>	NOTICE OF APPEARANCE by Jennifer Lindsay Jones on behalf of the Museum of Modern Art (Jones, Jennifer) (Entered: 05/04/2009)
05/04/2009	<u>6</u>	NOTICE OF APPEARANCE by Margaret Antinori Dale on behalf of the Museum of Modern Art (Dale, Margaret) (Entered: 05/04/2009)
05/04/2009	<u>5</u>	NOTICE OF APPEARANCE by Louis M. Solomon on behalf of the Museum of Modern Art (Solomon, Louis) (Entered: 05/04/2009)
04/20/2009	<u>4</u>	ORDER SCHEDULING AN INITIAL PRETRIAL CONFERENCE:... Initial Conference set for 7/17/2009 at 10:45 AM in Courtroom 21B, 500 Pearl Street, New York, NY 10007 before Judge Colleen McMahon. (Signed by Judge Colleen McMahon on 4/20/09) (cd) (Entered: 04/20/2009)
04/20/2009	<u>3</u>	STIPULATION EXTENDING TIME TO RESPOND TO COMPLAINT, that the time to respond to the complaint shall be extended from 5/4/09, to 6/4/09. The Museum of Modern Art answer due 6/4/2009. (Signed by Judge Colleen McMahon on 4/20/09) (cd) (Entered: 04/20/2009)
04/16/2009	<u>2</u>	AFFIDAVIT OF SERVICE of Summons and Complaint. the Museum of Modern Art served on 4/13/2009, answer due 5/4/2009. Service was accepted by Elizabeth Mercante, Assistant to General Counsel. Document filed by Martin Grosz; Lilian Grosz. (Dowd, Raymond) (Entered: 04/16/2009)
04/10/2009		Case Designated ECF. (ama) (Entered: 04/15/2009)
04/10/2009		Magistrate Judge Theodore H. Katz is so designated. (ama) (Entered: 04/15/2009)
04/10/2009		SUMMONS ISSUED as to the Museum of Modern Art, Portrait of The Poet Max Herrmann-Neisse, Self-Portrait with Model and Republican Automaton. (ama) (Entered: 04/15/2009)

04/10/2009	<u>1</u>	COMPLAINT against the Museum of Modern Art, Portrait of The Poet Max Herrmann-Neisse, Self-Portrait with Model and Republican Automatons. (Filing Fee \$ 350.00, Receipt Number 683955) Document filed by Martin Grosz, Lilian Grosz.(ama) (Entered: 04/15/2009)
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