

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MARTIN GROSZ and LILIAN GROSZ,

Plaintiffs,

Index No. 09 Civ. 3607 (CM)(THK)  
(ECF Case)

-against-

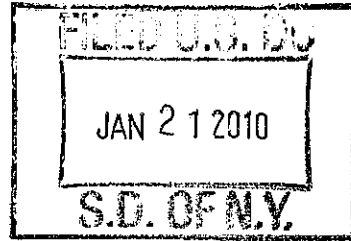
THE MUSEUM OF MODERN ART,

Defendant,

HERRMANN-NEISSE WITH COGNAC,  
SELF-PORTRAIT WITH MODEL and  
REPUBLICAN AUTOMATONS,  
Three Paintings by Grosz

Defendants-in-rem.  
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**NOTICE OF APPEAL  
IN A CIVIL CASE**

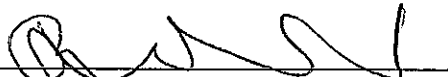


NOTICE IS HEREBY GIVEN that Martin Grosz and Lilan Grosz, who are plaintiffs in the above referenced action for declaration of title, conversion, replevin and constructive trust do hereby appeal to the United States Court of Appeals for the Second Circuit from the final judgment of the United States District Court for the Southern District of New York, McMahon, J. (a true and correct copy of which is annexed hereto), and from each and every part thereof, dismissing the case in its entirety and declaring Plaintiffs' pending objections to the Magistrate Judge's denial of *inter alia* discovery into artworks from Alfred Flechtheim's 1933 and 1937 inventories moot on the 11<sup>th</sup> of January 2010, together with the following orders annexed hereto: (1) memo endorsed by the Hon. Colleen McMahon dated December 2, 2009, ordering the parties to stop sending letters and indicating that all letters were "being thrown in the trash"; (2) memo endorsed by the Hon. Colleen McMahon dated January 6, 2010, directing Defendant to "suspend

work” on a response to Plaintiffs’ objections to the Magistrate Judge’s ruling denying discovery; and (3) decision and order of Hon. Colleen McMahon dated January 6, 2010, dismissing the action in its entirety and declaring the Plaintiffs’ objections to the Magistrate Judge’s denial of *inter alia* discovery into artworks from Alfred Flechtheim’s 1933 and 1937 inventories moot, and from each and every part thereof.

Dated: New York, New York  
January 21, 2010

**DUNNINGTON, BARTHOLOW  
& MILLER LLP**

By 

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