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SUPREME COURT OF THE STATE OF NEW YORK

APPELLATE DIVISION: SECOND JUDICIAL DEPARTMENT

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In the Matter of GEORGE SASSOWER, :
an attorney and-counselor-at-law :

GRIEVANCE COMMITTEE FOR THE SECOND :
AND ELEVENTH JUDICIAL DISTRICTS, :

Petitioner, :

GEORGE SASSOWER, :

Respondent. :

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Brooklyn, New York

April 9, 1986

B e f o r e :

HON. M. MICHAEL POTOKER,
Referee

A p p e a r a n c e s :

ROBERT H. STRAUS, ESQ.
Chief Counsel, Grievance Committee

ARTHUR BLAUSTEIN
Certified Shorthand Reporter

1
2 MR. STRAUS: Sometime late yesterday after-
3 noon, Mr. Sassower called my office. I was out.

4 As you know, it was our monthly committee
5 meeting, and spoke eventually to Mr. Ravanelli,
6 and told him that he didn't know if he would be
7 here this morning, and he wanted the message to
8 be conveyed to you that he didn't know if he was
9 going to be here. Mr. Ravenelli indicated to him
10 that he didn't think that was a proper message,
11 and, for him to convey to you, and perhaps he could
12 do it himself.

13 In any event, Mr. Sassower called my office
14 this morning at about nine o'clock, and said
15 that he didn't know if he would be here this morn-
16 ing, and, I told him that I thought it was too
17 late to contact you, and I didn't know what I
18 would be able to tell you anyway, and I wouldn't
19 be able to reach the Reporter, but that I assured
20 him that I would be here and I thought that you
21 would be here, and I thought we'd have a Reporter
22 here, and he could do as he saw fit.

23 He told me that he would, at risk to his
24 personal safety, attempt the trip from White Plains,
25 because he believes that he has an injury to his

inner ear.

However, at the time that he was speaking to me, he felt that the condition had settled, and it would allow him to make the journey, but indicating that he would be late because he would not be leaving before 9:30 or so.

At this point, I would suggest that, probably, it would be appropriate to wait until about 11:00 or so, and then I think the last time we waited until about twenty to eleven for Mr. Sassower's appearance.

I don't know what the delay was last time, but, in any event, I have conveyed the message to you, as I indicated I would, to Mr. Sassower.

THE REFEREE: We shall wait.

MR. STRAUS: With your Honor's permission, if I can leave Mr. Ravanelli here as a hostage, I'll return to my office and I'll be back.

He can call me as soon as Mr. Sassower comes.

THE REFEREE: The two of you can leave, and, as soon as he gets here, we'll call you.

MR. STRAUS: I think Mr. Ravanelli has things to work on.

(Recess ensues)

THE REFEREE: Are you ready?

MR. SASSOWER: Good morning, your Honor.

I'd like to take care of some preliminary matters.

THE REFEREE: I want to take up some preliminary matters too.

MR. SASSOWER: Does your Honor want to go first?

THE REFEREE: Number One, I'd like to know if you went to the Appellate Division and requested that they grant you permission to obtain a transcript without any cost?

MR. SASSOWER: Is your Honor complete --

THE COURT: That's Number One.
I'd like your response to that.

MR. SASSOWER: I don't want to go into the merits of the matter.

THE REFEREE: I want to know if you made an application to the Appellate Division.

MR. SASSOWER: I went there for quasi-poor person relief, yes.

THE REFEREE: When?

MR. SASSOWER: Could you help me out with the date, Mr. Straus?

MR. STRAUS: I'm going to look through here

right now, Mr. Sassower.

MR. SASSOWER: I think the application speaks for itself.

THE REFEREE: Sir, I don't have an application.

I want to know from you whether or not you went to the Appellate Division, and, said, "I don't have the money, I'd like a transcript of the minutes, please give me permission to get it."

MR. SASSOWER: I think what I said in the affidavit or affirmation speaks for itself.

THE REFEREE: I don't have any affirmation. I asked you a simple question, sir.

MR. SASSOWER: If I have the date, I'll know exactly what my situation was at that time, and, whatever my situation was, that's what I told them.

THE REFEREE: All I want --

MR. SASSOWER: I'm trying to find out now.

THE REFEREE: It was definitely --

MR. SASSOWER: It was definitely during the course of this hearing.

There were several motions made.

I don't want to say that I said something to the Appellate Division based on a situation that

1
2 that arose thereafter.

3 MR. STRAUS: The order to show cause,
4 which Mr. Sassower was submitting, was accompanied
5 by an affirmation, which was dated February 18,
6 1976.

7 If it was signed on the 19th of February of
8 1986 -- and, among -- Section 8 -- the relief
9 requested -- eight -- declaring respondent
10 quasi-disabled and entitled to quasi-poor person
11 relief for the purpose of this proceeding.

12 MR. SASSOWER: So, the answer to your
13 Honor's question is February 18.

14 THE REFEREE: Is that still pending?

15 MR. SASSOWER: That motion was denied in all
16 respects, your Honor.

17 THE REFEREE: When?

18 MR. STRAUS: According to my information, I
19 think it was denied on or about April 1st.

20 THE REFEREE: Does that refresh your recol-
21 lection, Mr. Sassower?

22 MR. SASSOWER: It refreshes my recollection
23 to the extent that, unofficially, with the except-
24 ion of a public hearing, all requests were
25

1
2 initially to go to your Honor.

3 THE REFEREE: That's not what Mr. Straus
4 read.

5 He said, "Denied in all respects."

6 MR. SASSOWER: That doesn't mean that --
7 that was the relief that I requested there.

8 THE REFEREE: I'm talking about the only
9 relief that I'm interested in now, is your right
10 to a transcript of the minutes.

11 MR. SASSOWER: Judge, I go by your Honor's
12 ruling, and I don't want to re-do it, okay, I go
13 by your Honor's ruling.

14 I'm not here to reargue it.

15 MR. STRAUS: Sir, I want the date. On April 1--

16 MR. SASSOWER: Can I see the order of
17 April 1st?

18 MR. STRAUS: I don't have the order.
19 I called the Court on April 1st, April 1st or
20 March 31st and was advised that the motion had
21 been denied.

22 In fact, there was an order relating to
23 a previous motion.

24 Let me see if I have that. I don't know if
25 I have a copy of that order, your Honor.

1
2 That was the representation made to me in
3 response to my telephone call to the Appellate
4 Division.

5 THE REFEREE: Mr. Sassower, so that when
6 you made your application before me on April 3rd,
7 that was after the Appellate Division had denied
8 your request.

9 At no time, did you tell me that you went to
10 the Appellate Division and that it denied your
11 request for a transcript of the minutes without
12 cost.

13 MR. SASSOWER: Whatever I said -- excuse
14 me -- do you want me to respond?

15 THE REFEREE: Yes, by all means.

16 MR. SASSOWER: First of all, what I said to
17 your Honor, I'll not even attempt to state in haec
18 verba what it was.

19 Secondly, whatever I said to your Honor was
20 the truth, and to the extent that I omitted any-
21 thing, Mr. Straus was at liberty to fill that in.

22 And, secondly, and more important --

23 THE COURT: It was your application.

24 MR. SASSOWER: Excuse me. One more thing, and
25 more important, your Honor. It's my impression

1
2 that your Honor is aware of all proceedings
3 that --

4 THE REFEREE: I'm not aware of any proceed-
5 ings you have before the Appellate Division.

6 MR. SASSOWER: I sent copies to your Honor.

7 THE REFEREE: Sir, the fact that you sent
8 copies to me -- that copy I don't have -- I
9 don't have any such copy.

10 MR. SASSOWER: I'm telling your Honor that --
11 excuse me --

12 THE REFEREE: Let's go on.

13 MR. SASSOWER: Any application that I made
14 to the Appellate Division, once your Honor was
15 appointed, I sent your Honor a copy.

16 THE REFEREE: I know. There was an application
17 before me that you already made before the
18 Appellate Division, and the Appellate Division,
19 having denied such application, it was incumbent
20 upon you to preface your application before me
21 saying, "I made a similar application."

22 MR. SASSOWER: Who says I did not?

23 THE REFEREE: Sir, I say you didn't.

24 MR. SASSOWER: Okay, fine. The point is,
25 ex-parte conversations, and I'd like to take that

1
2 subject up first.

3 THE REFEREE: We're not going to discuss
4 that matter at all.

5 MR.SASSOWER: I think we should. Let me make
6 my record.

7 THE REFEREE: I'm not going to permit you to.

8 I'm presiding here, and, Point Number 2, this
9 hearing will be continued only if you respond to the
10 charges made against you by the Grievance Committee.

11 If you continue your tactics of last week,
12 I'll consider this hearing at an end.

13 It's as simple as that.

14 I'm not going to go through what I went
15 through last Thursday, sir, and previously.

16 That's it.

17 Are you ready to proceed?

18 MR. SASSOWER: I don't think that's a fair
19 statement.

20 THE REFEREE: Sir, are you ready to proceed?

21 MR. SASSOWER: I want to make a motion.

22 THE REFEREE: Sir --

23 MR. ASSOWER: Excuse me, may I finish my
24 motion?

25 THE REFEREE: No, sir.

Are you ready to continue?

MR. SASSOWER: May I make a few statements on the record?

THE REFEREE: Go ahead and that will be the end.

Then, we shall continue. Otherwise, this hearing will be terminated, and I will not tolerate any more yelling and screaming.

MR. SASSOWER: First of all, may I state that, as a matter of law, your Honor cannot serve as a Hearing Referee and a de facto Respondent at the same time.

The accusation was made, has been repeatedly made, period.

It has nothing to do with the merits. It has nothing to do with the merits.

I don't like -- and they are prohibited by all civilized law.

And my application is to call a stenographer and Mr. Straus to the stand to find out what this is all about.

THE REFEREE: Your application is denied. Let's go.

MR. SASSOWER: Secondly, may I find out

whether the ex-parte conversation that took place was recorded on the minutes.

THE REFEREE: We went through with that. Let's go.

MR. STRAUS: May I make -- may I?

THE REFEREE: Are you ready to resume the witness stand?

MR. SASSOWER: I want to finish my statements.

THE REFEREE: You are not going to continue making statements for the rest of the day.

MR. SASSOWER: It will take me five minutes.

THE REFEREE: Well, five minutes and five minutes and five minutes adds up.

MR. SASSOWER: Mr. Straus wanted to say something.

THE REFEREE: I -- are you all through?

MR. SASSOWER: No.

THE REFEREE: Go ahead, and, let's go.

MR. SASSOWER: I wish to advise the Court that an inspection of the files that I made last week -- unfortunately, I couldn't make photostatic copies --

THE REFEREE: Whose files?

MR. SASSOWER: County Clerk's files --

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2 reveals that each and every application made by
3 Mr. Postel to be instituted as the attorney was
4 not granted.

5 Your Honor asked the question. I put that
6 as a response.

7 Unfortunately, all the photostat machines
8 except one, were not operable, and I couldn't
9 even get to them.

10 Secondly, I wish to advise the Court that
11 there was a proceeding pending in Supreme Court,
12 New York County under a petition dated March 26,
13 1986, under index number 7527 of '86, entitled
14 People of the State of New York, et cetera, et
15 cetera, et cetera, against Honorable Sol Wachtler
16 as the Administrator --

17 THE REFEREE: What is the relevance of this
18 proceeding?

19 MR. SASSOWER: The relevance is that part of
20 the relief asked for in that motion, is that all
21 public papers, all legal papers that have been and
22 are with Referee Diamond be filed and be made
23 available.

24 Now, I have repeatedly, and I think it's
25 incumbent upon Mr. Straus to bring those papers

1
2 here, because I think they are very, very important
3 documents there.

4 These are papers which are absolutely neces-
5 sary for this case.

6 THE REFEREE: How are they necessary?

7 MR. SASSOWER: There is not a single charge
8 in the petition that could not be enlightened
9 tremendously by those papers.

10 For example, the charges made about repeated
11 motions.

12 Well, repeated motions are made, but they are
13 destroyed and lost, and, they disappear. Where?
14 In Referee Diamond's chambers.

15 Secondly, when many of these motions were
16 made out of frustration, they were made after
17 consultation and advice from Referee Diamond's
18 attorney, and, in fact, many of the motions -- I
19 don't say "many of the motions" -- a number of the
20 motions specifically state in the opening
21 paragraph, "This motion is made after consultation
22 with Senior Assistant-Attorney General David S.
23 Cook," who is the attorney for Referee Diamond.

24 Furthermore, I want to draw your Honor's
25 attention to Disciplinary Rule 7.103, which

specifically obligates a prosecuting attorney to set forth all evidence that tends to negate the guilt of the accused, mitigate the degree of the offense, or, reduce the punishment.

Mr. Straus qualified that obligation by saying it is only incumbent upon him, if that evidence was equally available to me, which, at the time, that qualification was thrust upon me, did not pose a serious problem, because, at that time, I knew I had the absolute right to subpoena, and the almost absolute right of subpoena duces tecum.

The -- the events of this trial speak for itself.

So that we have here a situation where, clearly, that I know of, exculpatory material which was revealed to Mr. Straus, which he knows about, and not only failed to produce it, but from his seat as Counsel, has made himself an unsworn witness.

Now, it is unfortunate that in some of these cases, or, in most of these cases, practically all of these cases, I cannot produce that evidence because it's hearsay. Nor, is it easy for me to identify the sources of that information.

Now, let me give you an example.

Referee Diamond in a so-called opinion, in a non-public courtroom, where I am not even allowed to be there, and not for the reason that he stated, because I'll show a transcript that I am not allowed to be there because I nicely suggested to him that if a witness is there without attorney, that I feel it's his obligation to advise the witness that he has Fifth Amendent rights.

THE REFEREE: Mr. Sassower, what does that have to do with this case?

MR. SASSOWER: I'll answer.

MR. STRAUS: If your Honor pleases, may we have Mr. Sassower on the witness stand?

THE REFEREE: You said five minutes. We've passed five minutes.

I want you to conclude, otherwise, you will go on all day.

MR. SASSOWER: I'm finished.
Do you want me to answer your Honor's question?

THE REFEREE: You do anything you wish, sir, but conclude.

MR. SASSOWER: Do you want me to answer your Honor's question?

1
2 THE REFEREE: Sir, are you ready to resume
3 the witness stand?

4 MR. SASSOWER: I want to finish that one
5 thought.

6 THE REFEREE: Go ahead.

7 MR. SASSOWER: Referee Diamond stated in
8 one of his opinions that Mr. Raffe discharged me
9 while I was in jail.

10 Mr. Straus as an unsworn witness, told the
11 Court that Referee Diamond had made a mistake.

12 Now, how does Mr. Straus know that Referee
13 Diamond made a mistake? Okay.

14 This is a type of unsworn evidence you have.

15 THE REFEREE: Mr. Sassower, we had Mr. Raffe
16 on the witness stand. He was the one who testified,
17 not hearsay, he testified that he told you in
18 January of 1985, you know, he no longer wanted you
19 to represent him.

20 That, in July of 1985, he sent you a communi-
21 cation to that effect --

22 MR. SASSOWER: First of all, he --

23 THE REFEREE: -- and many times in between.

24 MR. SASSOWER: That's an outright fabricat-
25 ion.

1
2 MR. STRAUS: May we have Mr. Sasssower
3 back on the witness stand?

4 MR. SASSOWER: First of all, that is contro-
5 verted.

6 THE REFEREE: Sir --

7 MR. SASSOWER: Secondly, that's not even
8 alleged, and it's controverted by the testimony
9 of Mr. Raffe, which Mr. Straus gave me after
10 Mr. Raffe testified, which contradicts that
11 statement, but besides everything else, Mr.
12 Straus in his petition, in his letter which
13 says, "We do not allege that Mr. Raffe discharged
14 you" --

15 MR. STRAUS: We said that the charge did not
16 require the type of proof which you were attempting
17 to adduce.

18 MR. SASSOWER: I can read the allegations.

19 MR. STRAUS: May we have Mr. Sassower back on
20 the witness stand, since he's repeating himself?

21 THE REFEREE: Are you ready to continue?

22 MR. SASSOWER: I'll go through the form.
23 Your Honor made the decision even before we start-
24 ed this case. So, let's go through the charade.

25 THE REFEREE: Mr. Sassower, if this is

1
2 charade, it was you who caused it.

3 MR. SASSOWER: It's not me. For thirty-five
4 years I haven't gotten into ex-parte conversations.
5 Apparently it's the coins of the realm with Mr.
6 Straus, your Honor.

7 THE REFEREE: Are you ready?

8 MR. SASSOWER: Yes, your Honor.

9 THE REFEREE: Go ahead. You are still under
10 oath.

11 MR. SASSOWER: May I have the petition so
12 that I'll answer the questions?

13 MR. STRAUS: You have the petition.

14 MR. SASSOWER: I don't have it here. I'll
15 answer the way your Honor has it.

16 THE REFEREE: Where is the petition?

17 MR. SASSOWER: I have it in the car.

18 MR. SATRAUS: If your Honor pleases, it is
19 now almost a quarter after eleven.

20 THE REFEREE: Every time you come to court,
21 you say you don't have this and that.

22 MR. SASSOWER: I have everything, your Honor,
23 that's necessary that I have, fine, but, your
24 Honor wanted to go a certain way. I'll go your
25 Honor's way, period.

1
2 If you want to go that way, and you want
3 me to get my copy, I'll be happy to go back and
4 get my copy, but this is the way you wanted me
5 to proceed.

6 THE REFEREE: You get your copy.

7 MR. SASSOWER: Do you have an extra copy?

8 MR. STRAUS: I want to follow my application.
9 You directed Mr. Sassower, I believe, at the last
10 session, and the previous session, that if he had
11 documents, that he was going to refer to while he
12 was testifying, that he should bring them with
13 him to the courtroom, instead of taking recesses
14 throughout the day to return to his car to bring in
15 what he needed.

16 He's known that he was going to testify for
17 almost two months, I believe.

18 Every time we have a session, he takes four
19 or five recesses so he can return to the car to
20 bring back a single document, or two documents.

21 It is now a quarter after eleven.

22 MR. SASSOWER: Excuse me.

23 MR. STRAUS: Let me finish.

24 MR. SASSOWER: You go on with your lies.
25 You have never seen me come here except without two

1
2 arms. Baloney.

3 THE REFEREE: I told you earlier I'll not
4 tolerate --

5 MR. SASSOWER: You don't have to tolerate
6 anything.

7 THE REFEREE: -- your noisy and boisterous
8 conduct.

9 MR. SASSOWER: You don't have to tolerate
10 anything, but I don't like this baloney.

11 Why don't you try to pick up this --

12 THE REFEREE: Don't throw heavy boxes.

13 MR. STRAUS: May the record show Mr.
14 Sassower just took up what appears to be two rather
15 large bound records here and tossed them in
16 my direction at the counsel table?

17 MR. SASSOWER: I'll get the petition.

18 THE REFEREE: Mr. Sassower, I told you and I'm
19 repeating it for the last time, I will not toler-
20 ate your conduct again.

21 MR. STRAUS: Will you direct Mr. Sassower to
22 bring back everything he needs for his testimony
23 today?

24 MR. SASSOWER: No, I cannot bring back three
25 hundred pounds that are in four briefcases.

1
2 THE REFEREE: You brought back fifty pounds
3 of bound volumes.

4 MR. SASSOWER: On one trip.

5 THE REFEREE: Let's go.

6 MR. SASSOWER: I'll take as much as I can on
7 one trip.

8 THE REFEREE: Take as much as you can.

9 (Recess ensues)

10 MR. SASSOWER: Do you want me to get the rest
11 at this time, your Honor?

12 I carried as much as I should.

13 THE REFEREE: I don't know what you have.

14 MR. SASSOWER: I have the petition and as much
15 as I could carry.

16 MR. STRAUS: May the record indicate that
17 it is now 11:25?

18 THE REFEREE: Go ahead, Mr. Sassower.

19 MR. SASSOWER: To make sure I understand your
20 Honor's instructions, I'll go through the petition.

21 THE REFEREE: You already testified the other
22 day with relation to parts of the petition, so, I
23 don't want you to repeat the testimony you already
24 gave.

25 MR. SASSOWER: I'd like to see the petition.

of May 13 of 1985, which is alleged in Paragraph First.

MR. STRAUS: The petition of May 13?

MR. SASSOWER: Yes.

MR. STRAUS: I don't know what you're referring to. What petition?

MR. SASSOWER: It says here, "A petition of May 13."

THE REFEREE: Where does it say it?

MR. SASSOWER: On Paragraph First.

MR. STRAUS: Of this petition?

MR. SASSOWER: Yes.

MR. STRAUS: Your Honor, I object. This is the petition --

MR. SASSOWER: I think it has exculpatory material in there, your Honor.

MR. STRAUS: We're dealing with the petition, not what happened prior.

MR. SASSOWER: The first allegation of the petition refers to a petition dated May 13, 1985, and I have been led to believe --

MR. STRAUS: There's no petition; a report of the Grievance Committee.

It was filed with the Court.

1
2 THE REFEREE: It was filed with the Court
3 and the Appellate Division ordered a hearing on
4 the charges and let's get going.

5 MR. SASSOWER: I'd like to see that report.

6 MR. STRAUS: Objection.

7 MR. SASSOWER: I understand it has exculpatory
8 material.

9 MR. STRAUS: It has no exculpatory material.

10 MR. SASSOWER: I don't take your word for
11 it.

12 MR. STRAUS: The Court has it already. If
13 there is anything, exculpatory material in it,
14 they're aware of it.

15 It was submitted to the Court.

16 MR. SASSOWER: I never saw it.

17 MR. STRAUS: You're not the Court, Mr. Sassow-
18 er, not yet.

19 MR. SASSOWER: I'd like to see it.

20 THE REFEREE: The Appellate Division has it.

21 MR. STRAUS: That's correct.

22 THE REFEREE: The Appellate Division acted
23 pursuant thereto.

24 MR. SASSOWER: Do you authorize me to look
25 at it?

1
2 MR. STRAUS: I have no authority to authorize
3 you.

4 THE REFEREE: Do you wish to make an applicat-
5 ion before the Appellate Division, do so.

6 Let's go on with the charges.

7 You have already testified with respect to
8 Justice Schwartz and Justice Gammernan.

9 So, look through your notes and --

10 MR. SASSOWER: I'm going to go exactly the way
11 you want me to.

12 THE REFEREE: But not to repeat the testimony.

13 MR. SASSOWER: I'm not going to repeat anything.

14 THE REFEREE: Go ahead.

15 MR. SASSOWER: Charge One, Paragraph One.
16 That's not what the order says.

17 THE REFEREE: What order?

18 MR. SASSOWER: Judge Gammernan's order.
19 Two. I'll point it out in a brief to your Honor
20 rather than going into it.

21 THE REFEREE: No, no.

22 MR. SASSOWER: Two.

23 THE REFEREE: I want you to testify.

24 MR. SASSOWER: Two. Absolutely absurd because
25 I never walked across the street and gotten a

1
2 summons in federal court, if I thought that any-
3 thing violated Judge Gammerman's order, if I had
4 an alternative, I would do it.

5 Thirdly, or secondly, as I attempted to
6 show your Honor, it is impossible, impossible as a
7 factual matter and as a theoretical matter for me
8 to be in civil contempt, as I will demonstrate
9 later on, and if you cannot be held in civil
10 contempt with one minor exception, you cannot be
11 held in criminal contempt.

12 MR. STRAUS: Could Mr. Sassower do that now
13 since we're on Charge One?

14 MR. SASSOWER: Okay. I'll tell you why.
15 I have a judgment.

16 THE REFEREE: Let's -- you made the statement
17 that Justice Gammerman's order did not so state.

18 According to the petition, Judge Gammerman's
19 order permanently enjoined and restrained you
20 from filing and asserting any further lawsuits
21 relating to Puccini, from continuing to prosecute
22 designated pending lawsuits against specified
23 parties without leave of the court.

24 You say Judge Gammerman's order did not so
25 order you?

1
2 MR. SASSOWER: No.

3 THE REFEREE: Do you have a copy of the
4 order?

5 MR. SASSOWER: I have it here.

6 THE REFEREE: Let's see it.

7 MR. STRAUS: It's in evidence, and it's at-
8 tached to Mr. Sassower's petition.

9 MR. SASSOWER: Let me explain further. Just
10 a month ago, Judge Gammerman on the minutes says
11 what he did. This is not what he did. I have his
12 own testimony, Judge Gammerman's testimony as to
13 what he did.

14 If there is anybody that knows what Judge
15 Gammerman did better than Judge Gammerman, I don't
16 know.

17 THE REFEREE: You have Exhibit K, sir.
18 That's Judge Gammerman's order.

19 You say his order did not enjoin you?

20 MR. SASSOWER: I'm saying this, your Honor,
21 I'm saying that Judge Gammerman said what his
22 order says and I have his testimony as of
23 a month ago.

24 THE REFEREE: That's not what you testified a
25 moment ago.

1
2 You said his order did not so state as
3 contended by the Grievance Committee.

4 MR. SASSOWER: I didn't prosecute these
5 cases further. I didn't prosecute --

6 THE REFEREE: Did Judge Gammerman's order
7 enjoin you, as I just recited?

8 MR. SASSOWER: Yes.

9 THE REFEREE: Go ahead.

10 MR. SASSOWER: The cases mentioned -- to answer
11 your Honor's question -- the cases mentioned in
12 Judge Gammerman's order were not violated. That
13 was not the order of Klein or Judge Saxe; it was
14 not violated.

15 In fact, included in there is an action by
16 myself against Schneider for violating Judicial
17 Law 9010, which he put in there, which he admitted
18 violated nothing.

19 I was stayed by Judge Gammerman. I obeyed the
20 stay. I did not violate that order.

21 Furthermore, I have the minutes of Judge
22 Gammerman dated February, something. Without
23 even being asked, Judge Gammerman put on the record
24 what his order stated and this is not what the
25 order stated, according to Judge Gammerman, and I

1
2 don't know of a better authority of what Judge
3 Gammerman's order stated than Judge Gammerman.

4 MR. STRAUS: I object to the testimony. The
5 order is in evidence.

6 The order most definitely speaks for itself.
7 If the order did not enjoin or restrain Mr. Sassow-
8 er, then we'll fail to have established that.

9 MR. SASSOWER: What's the thrust of the alle-
10 gation?

11 Paragraph One.

12 Do you want to follow me, Your Honor?

13 THE REFEREE: Sir?

14 MR. SASSOWER: From continuing to prosecute
15 designated pending lawsuits.

16 I never prosecuted them, your Honor. No
17 question about it, those orders which enjoined
18 prosecution, I obeyed it.

19 MR. STRAUS: I'll object at this point.
20 Mr. Sassower was convicted of violating those ord-
21 ers.

22 MR. SASSOWER: No, I was not. Okay. All
23 right.

24 MR. STRAUS: We have put into evidence the
25 order of conviction which specifically holds that

1
2 under Charge One that Judge Klein held him in
3 contempt for having wilfully and deliberately
4 violated the order of Justice Gammernan.

5 Mr. Sassower is not permitted under the
6 rules to attempt to attack a conviction in this
7 forum, nor can he attempt to attack the essential
8 elements of the crime which were obtained in
9 the order convicting of criminal contempt.

10 His testimony, again, is at variance
11 with your rulings that he could not go behind
12 the order.

13 This is an order which has been received in
14 evidence and the testimony is, therefore, totally
15 improper.

16 MR. SASSOWER: No. He's saying in his
17 petition -- Mr. Straus is saying in his petition
18 that Judge Gammernan's order, and here he's cor-
19 rect, restrained me from, quote, "Continuing to
20 prosecute --" -- "Continuing to prosecute
21 designated pending lawsuits against the parties
22 without leave of the Court." Absolutely. If you
23 say that's true, then I didn't violate it because
24 I did not prosecute those cases.

25 In fact, in one of those cases --

1
2 MR. STRAUS: That's just the point. The
3 conviction held him guilty of violating the orders
4 and that's what he's attempting to vary at this
5 point.

6 MR. SASSOWER: You are saying in the petition,
7 and your petition is correct here that I, in fact,
8 when I wanted to continue one of those cases, I
9 made application to Judge Gammerman for leave.

10 This is your petition. Maybe your petition
11 is faulty.

12 Your petition says that I was enjoined from
13 continuing the prosecution of certain cases and
14 I never, without Judge Gammerman's permission,
15 even though I thought it was invalid, without
16 Judge Gammerman's permission, I did not prosecute.

17 MR. STRAUS: You were convicted of violating
18 it.

19 MR. SASSOWER: No.

20 THE REFEREE: Let's go.

21 MR. SASSOWER: Let's not argue. I'll give you
22 the facts.

23 That I wilfully and deliberately violated
24 such order? Nonsense.

25 By order of Judge Klein -- Judge Klein's

1
2 order speaks for itself, but if you will look
3 at Three. Three does not follow One. Judge
4 Klein did not convict me of continuing to prose-
5 cute designated pending lawsuits. Judge Klein
6 convicted me of instituting a new lawsuit, so,
7 while Three is essentially correct, your Honor,
8 Three does not follow One, because I'm not an
9 idiot, even though I said -- in fact, I had a
10 proceeding pending in Supreme Court, New York
11 County, to declare Judge Gammerman's order null
12 and void, and, not only did I have that proceeding
13 pending, Mr. Straus was informed of that fact by
14 me, because what happened when I was enjoined from
15 going to the Grievance Committee, I told Mr.
16 Straus that I thought he and the Grievance Committee,
17 whether it be his county or New York County, should
18 come in and attack that order. I wasn't going to
19 attack it.

20 I was going to --

21 MR. STRAUS: I object, if your Honor pleases.
22 This has nothing to do with the charge.

23 MR. SASSOWER: I started a proceeding to
24 declare Judge Gammerman's order invalid, but, I
25 didn't violate it.

1
2 THE REFEREE: But his order is still in
3 effect, isn't that right?

4 It hasn't been modified.

5 It hasn't been reversed.

6 MR. SASSOWER: Yes, but I didn't violate it.

7 MR. STRAUS: This charge alleges that he
8 was convicted of violating it.

9 MR. SASSOWER: Look at Paragraph on

10 THE REFEREE: I have looked at it.

11 MR. SASSOWER: I did not -- what Judge Klein
12 found me guilty of was not that I continued the
13 prosecution of any actions set forth in Judge
14 Gammerman's order. Okay.

15 That's a fact, and, if you will look at
16 Judge Klein's order, you will see that the titles --

17 MR. STRAUS: Your Honor, again, I believe
18 this testimony is violative of your ruling, for
19 the simple reason --

20 MR. SASSOWER: It's your allegation.

21 MR. STRAUS: That's correct.

22 Judge Potoker has ruled many times that
23 you can't attack it.

24 Page 7 of Judge Klein's order specifically
25 says, "Ordered and adjudged that, Hyman Raffe,

George Sassower, and Samuel Polur, are guilty of criminal contempt of court for having wilfully and deliberately violated the order of Justice Gammerman, dated January 23rd, 1985, which order permanently enjoins commencement of the within actions."

That is a matter of law. That's the law of this case.

MR. SASSOWER: That's not what you allege. You allege that Judge Gammerman and the allegation is correct, Mr. Straus alleged that I was restrained from continuing the prosecution of certain cases.

Now, it does not follow that Judge Klein's order found me guilty of violating what Mr. Straus alleges is Paragraph One.

THE REFEREE: Judge Klein's order will speak for itself and you appealed from that order to the First Department of the Appellate Division and the Appellate Division affirmed, so, let's go on.

MR. SASSOWER: I'm going one step further. I'm not being charged with that.

THE REFEREE: You keep repeating yourself.

MR. SASSOWER: I'm not. I'm charged that

1
2 Judge Klein said -- that's what the charge
3 says -- I'm not saying this is the fact because
4 the petition --

5 THE REFEREE: Let's go on to Charge Two.

6 MR. SASSOWER: Question --

7 THE REFEREE: Not "Question."

8 MR. SASSOWER: I'd like to ask a question at
9 this point, if I may.

10 THE REFEREE: You are testifying.

11 MR. SASSOWER: I'm saying that Mr. Straus
12 has in his possession exculpatory, mitigating
13 information, as a matter of law and has withheld
14 this.

15 THE REFEREE: He's already responded, and he
16 said he does not.

17 MR. SASSOWER: I'll show you he has.

18 THE REFEREE: We went through that.
19 Let's go on.

20 MR. SASSOWER: You don't want me to show it?

21 THE REFEREE: No. Let's go on to Charge Two.

22 MR. SASSOWER: Charge Two says again, that
23 Judge Gammerman enjoined me from continuing
24 the prosecution of certain designated, quote,
25 "Designated." Okay.

What Judge Saxe found me guilty of --

THE REFEREE: That's not what it says.

That's only partially what it says.

"That the Respondent was permanently enjoined and restrained from filing or serving any further lawsuits related to Puccini and from continuing to prosecute designated pending lawsuits against specified parties without leave of court."

MR. SASSOWER: This is not what the --

THE REFEREE: We have Judge Gammerman's order and that is what it states.

Let's go on.

MR. SASSOWER: Mr. Straus has in his possession the minutes of December 19, 1984.

He is aware of the minutes of February, 1986, which is at variance --

MR. STRAUS: I don't know what Mr. Sassower is talking about.

I haven't the foggiest notion of what he's talking about.

MR. SASSOWER: Do you have those minutes?

MR. STRAUS: I don't know what you're talking about.

MR. SASSOWER: Nobody believes you, Mr. Straus.

MR. STRAUS: Mr. Sassower --

MR. SASSOWER: At least I don't.

MR. STRAUS: That's right, and you are nobody.

THE REFEREE: Mr. Straus is not on the witness stand. You are.

MR. SASSOWER: No, your Honor, I may be on the witness stand, but the accused here is Mr. Straus. Okay.

THE REFEREE: Let's go on to Charge Two and again, you were convicted of criminal contempt of court.

MR. SASSOWER: Without trial, without a hearing, unknown in the law.

THE REFEREE: By Mr. Justice Saze.

MR. SASSOWER: That's not a judge. That's a payoff, it's a payoff, and --

THE REFEREE: Then the Appellate Division affirmed and they were paid off? The Appellate Division was paid off too?

MR. SASSOWER: Fine. Do you want to call up Judge Kupferman?

THE REFEREE: I won't call anybody.

MR. SASSOWER: Let me produce them.

THE REFEREE: The decision will speak for itself.

MR. SASSOWER: I'm not allowed to bring mitigating circumstances here?

THE REFEREE: Let's go on.

MR. SASSOWER: You think all judges are true, honest and obey their oaths of office?

You really believe that?

MR. STRAUS: Your Honor, will you direct Mr. Sassower to please testify?

THE REFEREE: I have, many times.

MR. SASSOWER: That charge I can show is an absolute phony.

THE REFEREE: Which charge?

MR. SASSOWER: Three.

MR. STRAUS: I believe as part of Charge Two, there was a Charge 2-A, which was added, which is based upon the conviction of Judge --

THE REFEREE: Martin Evans.

MR. SASSOWER: Can I bring Martin Evans here, your Honor?

THE REFEREE: What exhibit is that?

MR. STRAUS: It was received in evidence and then the charge was added at Mr. Sassower's request.

1
2 MR. SASSOWER: That's right. Can I bring
3 Referee Diamond here?

4 THE REFEREE: No.

5 MR. STRAUS: It's Exhibit 37.

6 THE REFEREE: It's 37. He affirmed. He con-
7 firmed Referee Diamond's report on sixty-three
8 counts of criminal contempt.

9 MR. STRAUS: I bring this to your attention,
10 so that if Mr. Sassower wants to proceed in an or-
11 derly manner, he might want to direct his remarks
12 to that conviction as well.

13 MR. SASSOWER: Sure, I will.

14 Mr. Schneider, in his brief, boasts of the fact
15 that he got Judge Ricconbono to punish, and I'm
16 paraphrasing Judge Evans -- I know as a fact
17 that Judge Evans' arm was twisted to send it to
18 Referee Diamond, and I have said in a brief,
19 because I had one day to prepare it, which will
20 probably be filed tomorrow, with the Appellate
21 Division -- I haven't Referee Diamond's report --
22 I doubt if Judge Evans read Judge Diamond's report.

23 The only one --

24 THE REFEREE: You mean Judge Evans confirmed
25 a report which he didn't read?

MR. SASSOWER: No. Do you want to bring him here?

THE REFEREE: I don't want to.

MR. SASSOWER: I do.

THE REFEREE: I don't want to bring him here.

MR. SASSOWER: I do.

The only one that I know who even looked at it, was Judge Bruce Mac Wright and he made some, very, very, adverse comments about the Diamond report which I'll get you a copy of, his decision.

MR. STRAUS: Judge Diamond's report was received in evidence.

MR. SASSOWER: That's in a non-public courtroom where I'm not there, where he says because somebody showed -- somebody showed it to me --

THE REFEREE: Mr. Sassower, a justice of the Supreme Court confirmed the report of the official referee.

MR. SASSOWER: That the Supreme Court of the United States, in Dennis against Sparks also said something that just because you are a judge doesn't mean you are not subject to subpoena, should not testify, because there is nothing in the law historically or otherwise that prohibits a judge

from testifying.

MR. STRAUS: If your Honor pleases, I object to this.

This is the argument that Mr. Sassower is making.

THE REFEREE: Well, 2-A, Justice Evans' arm was twisted.

MR. SASSOWER: He probably never read it.

THE REFEREE: That's what you said.

MR. SASSOWER: Okay. Don't you want to hear from the horse's mouth?

THE REFEREE: No. We have his order, that's sufficient.

Charge Three.

Your recourse, if you disagree with a judge, is to appeal.

MR. SASSOWER: They appealed. I'm cross-appealing.

THE REFEREE: As far as this proceeding is concerned, Justice Evans confirmation is still the order of the day.

MR. SASSOWER: No. Let me --

THE REFEREE: Charge Three.

MR. SASSOWER: Let me say it in one word.

Gilbert against Barbiero.

MR. STRAUS: If your Honor pleases, I heard --

MR. SASSOWER: Read it.

MR. STRAUS: I did.

MR. SASSOWER: Like I read the Code of Professional Ethics.

THE REFEREE: Charge Three, sir.

MR. SASSOWER: Three is a farce.

THE REFEREE: Judge Nickerson.

MR. SASSOWER: Absolute farce.

Do you want to know why?

Do you want to know the mitigating circumstances?

Are you interested in mitigating circumstances?

THE REFEREE: Sir, you are testifying. I don't know what you are about to testify.

So, you start testifying and I'll tell you if you're in order or out of order.

First we'll identify Judge Nickerson's order and he ordered you to appear at the United States District Courthouse in Brooklyn for a deposition on May 30, 1985.

MR. SASSOWER: That's a half-truth.

THE REFEREE: Wait a minute. The Grievance

Committee alleges that you wilfully and deliberately violated an order.

MR. SASSOWER: Absolutely wrong.

THE REFEREE: Wait a minute. Then Judge Nickerson, on June 7, 1985, convicted you of criminal contempt for violating his order.

MR. SASSOWER: Yes.

And, do you want me to answer it?

THE REFEREE: Then you went to the United States Circuit Court of Appeals for the Second Circuit and his decision was affirmed.

MR. SASSOWER: It's not even a half-truth.

THE REFEREE: None of this is true?

MR. SASSOWER: It's a half-truth.

THE REFEREE: What's the half-truth?

MR. SASSOWER: I was ordered to appear before Judge Nickerson on March 28 at 2 o'clock.

I was there at 2 o'clock.

Judge Nickerson's male law secretary and female law secretary saw me there.

At twenty minutes after two, nobody was there.

My other side wasn't there.

I went down to the Clerk's Office, filed certain papers, had them stamped. It was twenty-two

minutes after the hour and I left.

The next day, the 29th --

MR. STRAUS: If your Honor please, I object at this point.

MR. SASSOWER: You don't want to give the mitigating evidence?

MR. STRAUS: Mr. Sassower, don't yell at me, sir. Keep your voice down.

THE REFEREE: I told you not to yell, sir.

MR. SASSOWER: I'm sorry.

MR. STRAUS: Will you permit me to finish speaking, sir?

MR. SASSOWER: The obligation is upon you, not me.

MR. STRAUS: If your Honor please, Mr. Sassower is now attempting to retry that conviction.

He is saying that he actually didn't do what he was convicted of.

THE REFEREE: He has a right to deny it.

MR. SASSOWER: The next day I got the same order.

THE REFEREE: What do you mean you got the same order?

The order was mailed to you and you received it

the next day or did Judge Nickerson make another order?

MR. SASSOWER: They just scratched out the March 28th --

THE REFEREE: Who's "they"?

MR. SASSOWER: The other side.

THE REFEREE: What is the other side?

MR. SASSOWER: Gerstein.

THE REFEREE: And he represented whom?

MR. SASSOWER: Kreindler and Relkin.

THE REFEREE: What was the nature of the matter before Judge Nickerson?

MR. SASSOWER: They crossed out March 28th at 2 o'clock, where I was there, and instead, they put down March 30th at 9:30 a.m. Okay.

On the 29th, when I saw it, I immediately executed an affidavit, and, hand delivered to Mr. Gerstein's home and had it hand delivered to court at 9 o'clock the next morning, which affidavit stated in sum and substance, that I get it on the 29th and the 30th I'm on trial in State Supreme Court.

THE REFEREE: Mr. Sassower, did you make those allegations in your appeal to the Second Circuit?

1
2 MR. SASSOWER: I'll be finished.

3 THE REFEREE: No.

4 MR. SASSOWER: Yes.

5 THE REFEREE: Did they affirm it?

6 MR. SASSOWER: I don't know what they did.

7 THE REFEREE: What do you mean you don't know
8 what they did?

9 MR. SASSOWER: I'll tell you why.

10 Because "Schittalini" (phonetic) which is the
11 leading case on contempt --

12 THE REFEREE: Mr. Sassower, we can't go be-
13 hind --

14 MR. SASSOWER: I'm not.

15 THE REFEREE: You are. You are telling me
16 that, in effect, Judge Nickerson's and the
17 Court of Appeals were incorrect as a matter of law.

18 MR. SASSOWER: I didn't say that.
19 I'm giving you facts. I'm not saying anything. You
20 want to hear the facts?

21 THE REFEREE: You have already testified to
22 the facts.

23 MR. SASSOWER: Let me finish in another
24 minute.

25 THE REFEREE: Go ahead.

1
2 MR. SASSOWER: So, I got the papers on
3 the 29th.

4 I gave in an affidavit that I'm on trial
5 on the 30th. Witnesses had been called.

6 It was peremptorily against all sides.

7 The next day I went to trial. I was actually
8 on trial.

9 I'll produce a certified copy of the record.

10 The case that I was on trial was tried before
11 Davis who is a retired judge, because we both,
12 to get out of there, we both stipulated that
13 we'll try it before a retired judge, Judge Harry
14 Davis.

15 MR. STRAUS: If your Honor pleases, again --

16 THE REFEREE: Let him finish, sir.

17 You may have been on trial but you were ordered to
18 appear in the Brooklyn Federal District Courthouse
19 on May 30th.

20 On the, on the 29th I already was engaged. I
21 was engaged. I was there on the 28th, when I was
22 ordered. It was changed to the 30th. I got served
23 on the 29th to be there on the 30th. The 30th, I
24 had to be in another courthouse.

25 I gave an affidavit of actual engagement, and

1
2 not only did I say that, I said now they wanted
3 criminal contempt and the criminal contempt
4 was on Page 8, so, I put in, since it's criminal
5 contempt and since I have a commitment in state
6 court, witnesses ready, there were half a dozen
7 witnesses there, I put in my reply and I went
8 to the state court and I tried the case.

9 The judge had the affidavit. There's no more
10 I can do.

11 THE REFEREE: All right, let's go on to
12 Charge Four.

13 MR. SASSOWER: Baloney, absolutely. I'll go
14 through it, very, very -- because, I went through
15 most of the papers in the County Clerk's Office,
16 although I couldn't get copies of it --

17 Charge Four insofar as the opening paragraph
18 is concerned is conclusory.

19 You don't want me to answer that, do you?

20 THE REFEREE: No.

21 MR. SASSOWER: That's conclusory. One thing
22 I want to tell your Honor, there is a difference
23 between criminal contempt, of obstruction of
24 justice.

25 You can be in criminal contempt and not obstruct

justice.

MR. STRAUS: Are we on Charge Three or Four?

MR. SASSOWER: Charge Four. Let's go through it.

Wilfully? No. Knowingly? No. Except what I did.

Maliciously? Absolutely not.

Initiated, instituted, repetitious, frivolous, absolutely not. Vehemently denied.

In fact, I can point out every motion, every proceeding had a particular object in mind, which was legitimate.

Schedule I sets forth the litigation, so we'll go to Schedule I, and I want to be very, very specific about this, your Honor, because I don't want any doubt in your mind and it's really unfortunate that we don't have the original records here.

Can we go to Schedule I, your Honor?

One, I think, was withdrawn, right?

Mr. Straus?

THE REFEREE: There were four withdrawn.

MR. STRAUS: I think it's One, Five, Eight and Ten. That's my recollection.

MR. SASSOWER: Two, this Number Two, a motion for summary judgment was made by the Arutt firm.

We made a cross-motion for summary judgment. Judge Cohen came down with a decision which practically gives us summary judgment, so how can it be called frivolous when we're practically given summary judgment? That's Judge Cohen, Leonard P. Cohen. Okay.

Judge, can we hold in abeyance Item Number Three? I tried to get that file but somehow --

THE REFEREE: Go ahead.

MR. SASSOWER: Raffe against Citibank. Perfectly good case, perfectly good case.

If you want me to explain to you in a half hour, I'll tell you why it's a perfectly good case, and it's an unbeatable merit, unbeatable merit.

If you want me to explain for a half hour, I will in detail. Okay?

MR. STRAUS: If your Honor pleases, I have no -- Mr. Sassower is testifying -- Mr. Sassower, I know you have a loud voice -- please let me speak.

MR. SASSOWER: Fine.

MR. STRAUS: It is not alleged that every

1
2 action that was brought was vexatious or
3 frivolous, baseless, but it is alleged that all
4 of these actions taken together, constitute
5 frivolous, knowing what the purpose was, and it was
6 malice, all of these things taken together, that
7 is the allegation, constituted a pattern of this
8 type of litigation, so that an action which may
9 have been brought in 1982, was a legitimate action,
10 by virtue of being repeated, by virtue of being
11 included as part of a pattern in which charges
12 were brought against the same people over and over
13 again, in different courts, that is what is alleg-
14 ed.

15 I have no objection to Mr. Sassower testify-
16 ing to any of these actions, if he wishes, but,
17 I wanted to clarify that, what the charge is.

18 MR. SASSOWER: Let's say Raffe v. Citibnak
19 for a moment is a marvelous case, and is not yet
20 closed, and I'll come back to it later on, to show
21 why it is a marvelous case, if your Honor is
22 interested and we have time. Okay?

23 Raffe against Citibank, also unbeatable, un-
24 beatable on the merits. Not repetitious. Not
25 vexatious. Not anything. Believe me. Again, it

1
2 takes at least -- let me tell you about Raffe --
3 one or two words about Raffe against Citibank so
4 that you will see that it has merit.

5 Raffe against Citibank had about ten causes
6 of action.

7 One of the causes of action was that Referee
8 Diamond was operating from a non-public courtroom
9 where the public was excluded, which violated
10 constitutional standards.

11 Now, we are talking about federal now. We said
12 that's unconstitutional. Nobody every argued that
13 it was constitutional.

14 Referee Diamond -- another cause of action --
15 Referee Diamond got secret instructions --

16 THE REFEREE: Mr. Sassower, did you bring an
17 action in the U.S. District Court, Raffe versus
18 Citibank, in September of 1984?

19 MR. SASSOWER: Yes, but it was not repetitious.

20 THE REFEREE: That's what you so stated.

21 MR. SASSOWER: Tell me how long you want me
22 to explain it and I'll --

23 MR. STRAUS: It's also alleged to be in
24 violation, disqualifying Mr. Sassower.

25 MR. SASSOWER: No place. It's alleged.

1
2 MR. STRAUS: That's right. There was an
3 order dated 1982 by Judge Sinclair --

4 MR. SASSOWER: First of all, Mr. Straus --

5 MR. STRAUS: -- and, there were several ord-
6 ers.

7 You wanted to know why the charges are there.

8 MR. SASSOWER: First of all, no motion was
9 made, your Honor, no motion was made that I was
10 disqualified in federal court.

11 No opinion was ever rendered in federal court
12 saying that I could not repeat it, and as a bottom
13 line, no state order, and I'm speaking with a broad
14 brush -- there may be exceptions -- property rights
15 are determined by state courts under Paul v. Davis,
16 United States Supreme Court.

17 The state determines property rights, but,
18 properly, no state court can tell a federal court
19 as to how or how not to proceed, but the bottom
20 line is nobody every alleged that I could not
21 represent Puccini in this matter.

22 I want to say this, I did not represent
23 Puccini. I followed --

24 MR. STRAUS: At this point, I'll object only
25 because it is repetitious, Mr. Sassower.

MR. SASSOWER: He asked the question.

I followed what the Supreme Court said.

THE REFEREE: Let's go. Number Seven.

MR. SASSOWER: Court of Claims.

THE REFEREE: Which Court of Claims?

MR. SASSOWER: New York Court of Claims.

THE REFEREE: It was filed when?

MR. SASSOWER: I'll tell you in a second.

Around April or May of 1984.

This action claimed, with good authority, although there was nothing on the point, that since Puccini's assets were custodia legis, which means in the custody of the Court, the state was responsible for its safe keeping, and we alleged, we're not predicated liability upon any judicial agent; we do not claim liability, because the court appointed a receiver.

We are claiming liability in its administrative capacity saying, and, we had certain out of town cases -- there was nothing contrary -- we had certain out of state cases, which says that if a court, for example, takes money from a party for safe keeping, and the money is lost or the article is lost, the state is responsible, because in taking

and holding, or if they take an insufficient fund,
you will find that in Corpus Juris Secundum --

THE REFEREE: Let's go on.

MR. SASSOWER: -- a hard case -- it's still
not really resolved.

THE REFEREE: You said you were justified in
bringing this action.

MR. SASSOWER: Absolutely.

THE REFEEEEE: It was not frivolous and not
repetitious.

MR. SASSOWER: No.

THE REFEREE: Not vexatious.

MR. SASSOWER: No.

THE REFEREE: Had you already made similar
application to another court prior to April or May
of 1984?

MR. SASSOWER: Absolutely not.

THE REFEREE: Go ahead.

MR. SASSOWER: Number Nine.

Are you giving the full title of that, because
there are two similar ones.

Did you put down the full title of Number Nine?

MR. STRAUS: As best we could from the
information that we were able to glean; that's the

1
2 title.

3 MR. SASSOWER: There are two cases that have
4 a similar title to Number Nine, so, I'll just
5 assume that's the one that I'm talking about.

6 That's the one where we made a motion to
7 Judge Danzig for restitution based upon the
8 perjury of the Kreindler and Relkin firm in consort
9 with the other firms.

10 Diamond was appointed thereafter and directed
11 quote, in the decision itself, "I have been directed
12 by Referee Diamond to terminate this motion
13 without prejudice to going to Judge Sinclair."

14 So, we went to Judge Sinclair and he said in
15 sum and substance, "Go to Judge Danzig."

16 So, we went to Judge Danzig. So we went to
17 the Appellate Division, made respondents, Judge
18 Danzig and Judge Sinclair, and, said in sum and
19 substance -- I said -- "I know Judge Sinclair
20 very well. I know Judge Danzig very well. I'm
21 not getting into a battle with them. It has to
22 be between Judge Danzig and Judge Sinclair. One
23 of the two. You decide."

24 The assistant attorney-general Wagner--
25 Cook was on vacation at that time -- submitted an

1
2 affidavit saying, "Judge Sinclair will entertain
3 renewal." That satisfied me.

4 He made a decision that it be Judge Sinclair.
5 When we went back to Judge Sinclair, he did not.

6 We claimed -- we're not suing a judge here as
7 a judge.

8 This is all state responsibility. They are
9 fully indemnified here.

10 So we started an action against Judge Sin-
11 clair saying that he failed to perform a minister-
12 ial obligation which was right and it went before
13 Judge Shorter, who I also know very well, and I told
14 Judge Shorter that I would not start an action
15 against Sinclair for the world, except all I want
16 him to do is entertain renewal in accordance with
17 what the attorney-general put in his affidavit in
18 the Appellate Division.

19 Cook had come back from vacation and Cook
20 was representing Judge Sinclair, Judge Danzig,
21 Judge Riccobono, and Referee Diamond.

22 No question as to the merit.

23 No question as to the legitimacy.

24 It's still pending.

25 THE REFEREE: Let's go to Number Eleven.

1
2 MR. SASSOWER: It was not frivolous and
3 it was not vexatious.

4 Number --

5 MR. STRAUS: Your Honor, just in the interest
6 of, perhaps, getting Mr. Sassower back on track,
7 perhaps it might be appropriate to give testimony
8 which would be appropriate as to whether or not
9 these violated court orders.

10 MR. SASSOWER: No.

11 MR. STRAUS: Since it is also alleged,
12 Schedule One applies to both Four and Five.

13 MR. SASSOWER: Fine, thank you, very much, Mr.
14 Straus.

15 THE REFEREE: Schedule I, lawsuits in --
16 commenced in violation of court order.

17 MR. STRAUS: The cases, were, in fact,
18 included under both charges and we don't use the
19 caption, but we do allege that these cases were
20 brought in violation of a court order, and I'm
21 only asking and raising it at this point, so Mr.
22 Sassower would respond to that, because that's
23 included under Charge Five, but if he is going
24 through them case by case, it might be helpful
25 to do both.

MR. SASSOWER: Thank you, very much.

See? We can get along.

I'll be happy to do that.

THE REFEREE: That's under Five, not Four.

MR. STRAUS: No. He might want to cover both of them at the same time.

MR. SASSOWER: I think it's a good suggestion to save time.

One is out. Two might violate Judge Gammerman's order. Okay.

Now, on Number Two, Tim Butler gave the facts to Judge Cohen.

Let me put it this way.

The State of New York conceded that Gammerman's order was not effective.

D'Amato and Lynch was in the same position as The State of New York, but not ready to concede it.

What D'Amato and Lynch was ready to do, was to give the facts to the judge, and let the judge decide whether they were restrained by the Gammerman order.

Tim Butler, representing the Arutt firm on the motion, went to Judge Cohen, gave him the

1 facts, and said, "You make the decision." He
2 says, "We were not served, we were not a party
3 to it, although we're named, although we're named
4 here, we had nothing to do with the Judge Gammer-
5 man order."
6

7 And, Judge Cohen, in a six-page decision, where
8 he denied their motion to dismiss, in effect,
9 stated, "Although you are named in the Gammerman
10 order, the Gammerman order does not apply."
11 That was Judge Cohen's decision of July 30th or
12 31st, 1985.

13 Number Three. Nobody ever said it violated
14 any order, and I don't see how it could violate any
15 order.

16 Four. There was a federal action, which can't
17 violate any order, and nobody even alleged it.

18 Number Five. That it was removed.

19 Number Six, same thing.

20 Number Seven. Nowhere, Judge, nowhere in
21 the Court of Claims or in the Appellate Division
22 did anybody even say this was violated.

23 In fact, there was a big exchange on this
24 very subject between myself -- when I say, "Ex-
25 change," I don't mean a fight -- questioning by

1
2 Appellate Division Judge Dave Ross and myself,
3 and, in the end, he just threw up his hands,
4 and he said, "I just don't understand it. On
5 the same case with the same facts, with the same
6 parties, on one, you're disqualified and the other
7 you are not disqualified."

8 He said, "Nobody can figure this thing
9 out and we can't figure it out because the papers
10 were switched, and that's why."

11 In two cases --

12 THE REFEREE: Who said the papers were switched?

13 MR. SASSOWER: This was the exchange because
14 Judge --

15 THE REFEREE: Who said the papers were switch-
16 ed?

17 MR. SASSOWER: I did; this is admitted.

18 THE REFEREE: You are quoting a judge and
19 then --

20 MR. SASSOWER: I want to go back to Number --
21 Number Two. They admitted the papers were changed.

22 In their papers they admitted they switched
23 papers, the Kreindler firm admitted they were part
24 of it in December, 1984, they admitted it on the re-
25 cord.

1

2

So, Number Seven, nothing violated.

3

Eight --

4

MR. STRAUS: Eight was withdrawn.

5

THE REFEREE: Nine.

6

MR. SASSOWER: You know something, Judge --

7

THE REFEREE: I don't know anything. Let's

8

go.

9

MR. SASSOWER: Eight was withdrawn?

10

THE REFEREE: Yes. One, Five, Eight and

11

Ten.

12

MR. SASSOWER: I thought it would be covered

13

by Gammerman's order, but I see it's before it.

14

Okay.

15

THE REFEREE: Number Nine is still pending.

16

MR. SASSOWER: In Number 8, it was started be-

17

fore the Gammerman order.

18

We were enjoined by the Gammerman order and

19

never proceeded about it; it's at an end.

20

There's no disobedience.

21

MR. STRAUS: It's not charged. It's withdrawn.

22

MR. SASSOWER: I'm telling you, there is no

23

disobedience.

24

Are we up to Nine?

25

THE REFEREE: Yes. You said the case is

1
2 still pending.

3 MR. SASSOWER: Yes. Judge Shorter did not
4 rule that it was violative of Judge Gammerman's
5 order.

6 In fact, it was before Judge Gammerman's or-
7 der. It's just not violative.

8 Number Eleven. We're now up to Number Eleven,
9 right? Okay.

10 Number Eleven. I don't think Kreindler and
11 Relkin are part of the title.

12 Do you have that case in front of you? Do you
13 have a copy of that case, Mr. Straus? Here.

14 MR. STRAUS: Only --

15 THE REFEREE: That's Raffe against Riccobono,
16 et cetera, et al. Go ahead.

17 MR. STRAUS: If it's not an exhibit, I don't
18 have it here.

19 MR. SASSOWER: Eleven and Twelve, let me
20 answer together. Okay.

21 You must understand there is no case in the
22 United States where a receiver was appointed, did
23 not file his bond, and the assets were taken by
24 other people.

25 So, let's say Puccini started off with --

let's take any number -- five million dollars --
and now has one million dollars.

Who is responsible for the four million dollars?

We said the guys who did the stealing and that was Kreindler and Relkin.

So we proceed against Kreinder and Relkin or Puccini did.

THE REFEREE: Proceeded against Justice Riccobono, Justice Johnson --

MR. SASSOWER: I'm put it it in context. When we started to proceed against Kreindler and Relkin, and other guys who took the money, Diamond was giving us a run around, so, I said to Dave Cook, I said --

THE REFEREE: He was the attorney-general.

MR. SASSOWER: Right. I said, "Look, Dave, as far as I'm concerned" -- and we sat and talked about it. "I'm not here to make waves."

We talked about it.

I said, "Look, the court is the trustee. The receiver is the agent of the court. Why am I knocking myself out trying to run after Kreindler

1
2 and Relkin and the Arutt firm, and everybody else who
3 stole money from Puccini and here I'm getting a
4 hard time from Diamond and Riccobono." I said,
5 "To heck with it. I'm doing their work. What are
6 they responsible for?" I said, "If it was an
7 ordinary trust, you go over against the trustee,
8 and you let the trustee chase the guys who stole
9 the money."

10 In fact, your Honor, I remember it so well.

11 I said, "Dave" -- are you following me,
12 your Honor?

13 THE REFEREE: Go ahead.

14 MR. SASSOWER: I said, "Dave, if I give you
15 ten bucks and you put it on your desk and you come
16 back and somebody has taken the ten bucks off
17 your desk, it's not my responsibility to go find who
18 stole the ten bucks from you. I gave you the
19 ten bucks. You owe it to me." So, if they are
20 going to give me a hard time in trying to get the
21 assets back for Puccini, let them do it.

22 So, what did I do, your Honor? You have to
23 look at the title. You have to look at the title.

24 THE REFEREE: I'm following you and I'm making
25 notes.

MR. SASSOWER: Look at Twelve and Eleven.

THE REFEREE: I have them right in front of me, sir.

MR. SASSOWER: The question is who is the trustee.

Is it the -- who's responsible? Is it the State of New York?

Is it Riccobono? Danzig and Sinclair? Sinclair has two capacities. You have to understand. Who is it?

Now, against the State of New York, you see that previous case had to be started in the Court of Claims because the State of New York could only be sued in the Court of Claims and individuals cannot be sued in the Court of Claims.

So, against individuals, I had to start it in Supreme Court.

So, yes, you can say they are duplicative only because the State of New York cannot be sued anywhere but in the Court of Claims as his Honor is well aware, and advised, cannot be sued in the Court of Claims, so I can, to start like two actions, one in the Court of Claims and one in Supreme Court.

Now, in Supreme Court, you had another problem. Who is responsible?

Well, obviously, you can't sue the Supreme Court of the State of New York in the Supreme Court of the State of New York.

You can only sue individuals in the Supreme Court of the State of New York.

So, there were three judges. I want you to understand this, your Honor.

These are fully indemnified lawsuits, Judge. If their actions are in the course of their duties, they're fully indemnified.

So, the question is, which judge is responsible?

Under 66.24, 22 New York, NYCRR, which was the procedure in the First Department, Judge Sinclair was the originating justice. That means he was the one who signed the order, the one who appointed the receiver. He's called the designating justice. Was Judge Michale J. Dontzig and the administrative Judge Riccobono?

So, we said, "Look, it's not for us to say which of the three Judges is responsible."

Actually, all we wanted is the money back.

Now, why did we want the money back?

Raffe had a judgment against Puccini for half a million dollars. He was fully indemnified.

I had a judgment against Puccini. Raffe had a claim against Puccini, a big claim, which was liquidated and nobody disputed it. I had a claim against Puccini.

Therefore, I was interested in the welfare of Puccini and Raffe was interested in the welfare of Puccini, and, therefore, we cannot be guilty of contempt, because we would do nothing to hurt Puccini.

THE REFEREE: Didn't Justice Greenfield, on September 8, 1982 prohibit you from representing Puccini?

MR. SASSOWER: But we didn't.

THE REFEREE: Unless --

MR. SASSOWER: First of all, there are two answers to that.

THE REFEREE: The answer is, yes or no.

MR. SASSOWER: Can I explain, your Honor.

THE REFEREE: Go ahead.

MR. SASSOWER: I never said in state court that I represented Puccini. I'm sorry. May I start over again and it's going to cut -- when I went

1
2 into the Appellate Division, SEcond Department,
3 and I brought a proceeding, George Sassower, on my
4 own behalf, and on behalf of an attorney who is
5 going to face his Honor in future disciplinary
6 proceedings, Mr. Straus nor anybody else said I
7 could not. Now, I represent this attorney.

8 THE REFEREE: The cases are Raffé versus
9 Riccobono.

10 Number Twelve is Raffé individually and on
11 behalf of Puccini Clothes.

12 MR. SASSOWER: That's not representing him.

13 MR. STRAUS: Mr. Sassower testified fully
14 to that as to why he maintains that on behalf of
15 Puccini Clothes he wasn't acting as their attorney.

16 MR. SASSOWER: I have also testified because
17 I want to modify one piece of testimony, I have
18 also testified that no judge has found that what I
19 did, and --

20 MR. STRAUS: Judge, do we have to have it re-
21 peated again?

22 MR. SASSOWER: No; I found a decision which
23 said, "Yes."

24 THE REFEREE: Go ahead.

25 MR. SASSOWER: I never saw it before. In

1
2 going through the files, last week -- it's a
3 decision with no order -- nobody entered an
4 order. It was in a wrong file, so I found,
5 although the judge said twice it was not violative,
6 this time he said it was violative, but, no
7 judge cited cases, and said what I'm doing, and
8 they always accused me of it, it was never sustain-
9 ed.

10 I would have stopped or gone back to Judge
11 Greenfield for modification.

12 It's a very simple thing to go back to Judge
13 Greenfield, if anybody said it was wrong, but,
14 nobody said it was wrong.

15 (Recess ensues)

16 MR. SASSOWER: I'd like to answer a question
17 asked by Mr. Straus, your Honor.

18 In every case where a judge questioned as to
19 whether what was being done violated an order,
20 I'd already started a proceeding to test it.

21 For example, Diamond made up some rules,
22 which he kept changing.

23 MR. STRAUS: If your Honor pleases, I'll object
24 only because for this reason --

25 MR. SASSOWER: You asked --

MR. STRAUS: I didn't ask a question.

I cannot keep in mind where Mr. Sassower is going unless he does it in an orderly way.

He's testifying in narrative form.

THE REFEREE: It's Number Thirteen that he's on.

Hyman Raffé, individually and on behalf of Puccini Clothes, commenced in November, '1984.

MR. SASSOWER: I want to go back to Twelve for one second.

If you'll look at Twelve, --

THE REFEREE: You said Eleven and Twelve.

MR. SASSOWER: They're pretty much related. They started about the same time.

They are slightly different and it would take me a half hour to tell you why it had to be two actions rather than one.

It could have been done in one, and it could have been done in two. We did it in two. Same time. But you will notice on Number Twelve, your Honor, where we say we want an accounting, and we want damages paid, we included the Fidelity and Deposit Company of Maryland who was the surety company for Feltman and, we said, we don't know if the

1
2 state is responsible, if the judges are responsible,
3 even though the state pays them, or the bonding
4 company is responsible, and there was only a limit-
5 ed bond.

6 THE REFEREE: When you say, "We," who is
7 "we"?

8 "We wanted an accounting."

9 "We wanted damages."

10 MR. SASSOWER: Raffe, me.

11 THE REFEREE: You were enjoined.

12 MR. SASSOWER: No, no, no, no, no. This is
13 '84.

14 THE REFEREE: Yes.

15 MR. SASSOWER: We weren't enjoined in '84.
16 This was '84.

17 THE REFEREE: In 1980, you were enjoined
18 by Justice Schwartz and relieved as counsel in
19 certain proceedings.

20 MR. SASSOWER: If you'll look at those proceed-
21 ings --

22 THE REFEREE: February 1, '82.

23 MR. SASSOWER: No.

24 THE REFEREE: You were disqualified by
25 Justice Sinclair as attorney for Hyman Raffe and so

on.

MR. SASSOWER: Judge, nobody said --
when you look at twelve and Thirteen, and look at
the papers, nobody said there that I could not
bring that proceeding.

This is for an accounting.

One of them was for an accounting.

Nobody said it. The judge didn't say it.
Nobody. Okay?

THE REFEREE: Go ahead.

MR. SASSOWER: This is the question I wanted
to answer because your Honor asked the same ques-
tion before.

If a judge had said as to this or anyone
else, "You can't do this, because of Judge
Greenfield's order," I would have taken an appeal,
I would have done something, but not one judge
at any time, during this period said it was wrong.

In fact --

Now, this is the point.

The issue came up directly before Judge Shaw
who had rendered an opinion on this.

What happened at the end of '84 --

THE REFEREE: In November '84, Raffé

individually, and on behalf of Puccini against Kreindler, Relkin, et cetera.

MR. SASSOWER: That's Number Thirteen.

THE REFEREE: Yes. Who designated Nassau as the County of trial?

MR. SASSOWER: I don't recognize this, your Honor, so I can't even say anything but if you'd like the papers on that, Mr. Straus, I'd appreciate it, it has no index number.

Mr. Straus, do you have the papers on that?

MR. STRAUS: It's not an exhibit.

THE REFEREE: It has no index number and Number Fourteen has no index number.

MR. SASSOWER: Number Fourteen, I remember. Fourteen is a, it was a summons based upon a violation of judicial law 487, I think it is.

THE REFEREE: Who's Mr. Weisman?

MR. SASSOWER: He's a -- he was a member of the Kreindler firm, then became a member of the Feltman firm.

When he left the Kreindler firm, Gerstein took over as the main guy.

THE REFEREE: What did you want from Weisman on January 7, '85?

1
2 MR. SASSOWER: This is important. The date
3 is important.

4 We were enjoined by Judge Hughes under a
5 temporary restraining order pending hearing. Okay.

6 Hearing took place on December 19.

7 On December 19, Judge Gammerman modified --

8 MR. STRAUS: Objection as repetetive.
9 He testified to the same thing at the last session.

10 THE REFEREE: Overruled.

11 MR. SASSOWER: Judge Gammerman modified
12 the restraining notice.

13 THE REFEREE: His restraining notice?

14 MR. SASSOWER: No, Hughes' restraining
15 thing, because it was a restraint pending hearing.

16 Hearing was held on December 19. Judge
17 Gammerman modified -- I have the minutes -- he
18 modified and restrained only the continuation
19 of lawsuits against the law firms, not against the
20 individuals. Very clear on that.

21 THE REFEREE: Against Weisman as a member of
22 the law firm can be distinguished from the law
23 firm.

24 MR. STRAUS: I'm objecting because Mr. Sassow-
25 er went through this, at least five or six times,

and, you, in fact, ruled that Judge Gammerman's order, speaks for itself.

THE REFEREE: Is that the same order of Judge Gammerman, or is there another order?

Do you have --

MR. STRAUS: It's the same order.

MR. SASSOWER: There are two Judge Gammerman's orders, of January 23rd, and, if you don't understand this, I'm sorry, you'll never understand anything.

So, let me get it on the record.

MR. STRAUS: I have it on the record five or six times, Judge.

He wants to vary the terms of the order by saying something else was said.

THE REFEREE: Mr. Sassower, I resent any personal remarks about my intelligence.

MR. SASSOWER: I'm giving you the facts.

THE REFEREE: Have a little respect.

MR. SASSOWER: Do you want the facts? I'll give you the facts.

I'm not going to say the moon is blue.

THE REFEREE: You have already answered.
Let's go on to Fifteen.

1
2 MR. SASSOWER: May I put it on the record,
3 because Judge Gammernan, last month, admitted what
4 he did.

5 THE REFEREE: Mr. Sassower, there is only
6 one order of Judge Gammernan in evidence.

7 That's the only one I shall refer to. Go
8 ahead. Next.

9 MR. SASSOWER: Judge Gammernan -- let me --

10 THE REFEREE: Number Fifteen, Raffé
11 against Jerome Barr and Citibank, 1785.

12 MR. SASSOWER: Judge Gammernan modified the
13 restraining -- Judge Hughes' restraining notice.
14 The allegations --

15 MR. STRAUS: Judge, you have ruled and he
16 keeps repeating himself.

17 MR. SASSOWER: The allegations are false.
18 His allegations are false.

19 THE REFEREE: All right. Next. You have already
20 said that, that all his allegations are false.

21 MR. SASSOWER: May I offer the minutes in
22 evidence?

23 THE REFEREE: The order speaks for itself.

24 MR. SASSOWER: The order was afterward.

25 THE REFEREE: The order is the final document.

1
2 MR. SASSOWER: No. It's the final document
3 as of January 23rd, but it can't tell you what
4 happened on January 7.

5 THE REFEREE: Denied. Go ahead. Let's go on
6 from there.

7 MR. SASSOWER: I vehemently object, and for
8 the record, may I state that Judge Gammerman
9 modified --

10 MR. STRAUS: Judge, he said it for the record.
11 I have no objection, if he wants to put the minutes
12 in evidence, so long as he doesn't repeat the same
13 thing he says before, I have no objection to the
14 minutes being received in evidence, if that will
15 terminate Mr. Sassower.

16 He's said it eight times.

17 MR. SASSOWER: Absolutely. What number?
18 I offer it in evidence.

19 THE REFEREE: You have the minutes.
20 What number is it?

21 Why should Mr. Straus go looking for it?
22 I'll reserve that.

23 MR. STRAUS: Your exhibit F for identification.

24 MR. SASSOWER: Is in evidence, okay.

25 THE REFEREE: Wait a minute.

1
2 MR. STRAUS: It was for identification. I
3 have no objection to it being received in evidence,
4 if you will let me see it, Mr. Sassower.

5 MR. SASSOWER: I gave you a copy.

6 MR. STRAUS: You didn't give us a copy. You
7 can hardly keep track of your copies, much less
8 giving us one.

9 Do you have the one marked for identification?

10 THE REFEREE: Respondent's F for identificat-
11 ion, Judge Gammerman's minutes.

12 MR. SASSOWER: Right. So, it's in evidence.

13 THE REFEREE: It's not in evidence.

14 MR. SASSOWER: Now it's in evidence.

15 THE REFEREE: Who has the physical document?
16 You took all of your --

17 MR. STRAUS: Mr. Straus will leave the stand
18 to return where --

19 THE REFEREE: Mr. Sassower --

20 MR. SASSOWER: Mark it in evidence and I'll
21 produce it this afternoon.

22 MR. STRAUS: It's not going to be received in
23 evidence, Mr. Sassower, until I see it.

24 THE REFEREE: Where are you going now?

25 MR. SASSOWER: To my briefcase.

1
2 THE REFEREE: Mr. Sassower, put your brief-
3 case next to you here on the witness stand so you
4 won't have to go back and forth.

5 MR. SASSOWER: This is the only time that I
6 have done it.

7 THE REFEREE: I'm trying to make it easier
8 for you.

9 MR. SASSOWER: I appreciate it.
10 I'll send you an extra copy if I don't have
11 an extra copy here, Mr. Straus.

12 THE REFEREE: Do you have it, sir?

13 MR. SASSOWER: I'm going through it.
14 This is F.

15 If that's not marked up, you can have this.
16 Here, Mr. Straus.

17 MR. STRAUS: I'm looking at the one he's offer-
18 ing in evidence, to make sure that's complete.

19 THE REFEREE: By all means.

20 MR. STRAUS: I have absolutely no objection.

21 THE REFEREE: Received, in evidence as
22 Respondent's F.

23 (So marked)

24 MR. STRAUS: Now, may we leave that subject
25 at this point?

1
2 I consented to that being received in
3 evidence only because Mr. Sassower would not
4 stop testifying about it.

5 He's done it eight times and you have ruled
6 eight times that he couldn't.

7 Now that's in evidence.

8 Could we go on to something else?

9 MR. SASSOWER: Thirteen, Fourteen and Fifteen
10 are covered by the minutes.

11 MR. STRAUS: It's our position that the order
12 is in evidence and that's what's controlling.

13 MR. SASSOWER: It didn't violate any order
14 is my testimony.

15 MR. STRAUS: Can we go on?

16 THE REFEREE: We're up to Number Sixteen.

17 MR. SASSOWER: Same thing, Fourteen, Fifteen
18 and Sixteen.

19 THE REFEREE: You said, Thirteen, Fourteen
20 and Fifteen.

21 MR. SASSOWER: Thirteen, I don't know what it
22 is.

23 THE REFEREE: You said you don't recognize it.

24 MR. SASSOWER: Right. Mr. Straus doesn't have
25 to do it right now.

1
2 MR. STRAUS: I'm not going to do it at any
3 time, if it's not in evidence, I'm not going to
4 look for it.

5 MR. SASSOWER: Then, cross it out of your
6 schedule.

7 I don't recognize the case.

8 THE REFEREE: Fourteen, Fifteen and Sixteen
9 you say, your response is that's covered by the
10 exhibit, in evidence.

11 MR. SASSOWER: The minutes, right.

12 THE REFEREE: Go ahead. Seventeen, Raffé
13 and Sassower.

14 MR. SASSOWER: Except for one thing, Thirteen
15 I'm being charged with the -- I'd like to look
16 at it, Mr. Straus, if he has it, let me see it.

17 MR. STRAUS: I haven't said one thing about
18 it.

19 I said if an exhibit has been received in
20 evidence, we have it.

21 We're bringing only the exhibits received in
22 evidence.

23 THE REFEREE: Do you have the index number
24 for Thirteen?

25 MR. STRAUS: I'm not sure if an index number

was purchased.

MR. SASSOWER: We were stayed.

MR. STRAUS: I don't know the reason.

THE REFEREE: Seventeen.

MR. SASSOWER: Fourteen, Fifteen and Sixteen.

THE REFEREE: You said that it's covered
by Exhibit F.

MR. SASSOWER: But once the order was issued,
we never proceeded any further on it with one minor
exception, which is not important here.

THE REFEREE: We'll recess for lunch at this
time, until 2:15.

We'll resume with Number Seventeen, I guess.

MR. SASSOWER: Yes, we're up to Seventeen.

(Lunch recess)

- - - - -

MR. STRAUS: When we left, Mr. Sassower made
requests with respect to Items Thirteen and Seven-
teen on the schedule.

As you may recall, with respect to those
charges through Exhibits Twelve and Thirteen,
certain documents were offered in evidence.

The one pertaining to Number Thirteen is a
one-page document, which is a photocopy of a summons

1
2 brought in the Supreme Court, County of New
3 York, Hyman Raffe, individually on behalf of
4 Puccini Clothes, Limited against Kreindler and
5 Relkin, Feltman, Karesh and Major, and Arutt,
6 et cetera. The plaintiff designated Nassau
7 County as the place of trial.

8 The summons is dated November 24, 1984.

9 George Sassower is listed as the attorney for
10 plaintiffs.

11 The object of the action is listed as fraud
12 and deceit, violation of judicial law and the
13 relief sought is five million dollars.

14 That's Thirteen, which corresponds to Number
15 Thirteen, on your list.

16 Does that refresh your recollection at all?

17 MR. SASSOWER: I'll have to look at it.

18 MR. STRAUS: Number Seventeen, as part of
19 that exhibit is a summons which lists the Supreme
20 Court, New York County, Hyman Raffe and George
21 Sassower, individually on behalf of Puccini Clothes,
22 Limited, against Kreindler and Relkin, Feltman,
23 Karesh, Major, the Nachamie firm, Citibank,
24 and Jerome Barr, individually and as executors of
25 the Estate of Milton Kaufman. George Sassower is

1
2 listed as the attorney for plaintiffs. The
3 summons is dated January 28, 1985.

4 The nature of the action is listed as
5 extrinsic fraud in procuring the order entered
6 January 24, 1985, parenthesis, 186-89, closed
7 parenthesis.

8 The relief sought is one hundred million
9 dollars in compensatory and punitive damages.

10 And I also show that to Mr. Sassower and
11 ask if it refreshes his recollection.

12 MR. SASSOWER: I said I may have confused
13 one with the other.

14 I needed the summons.

15 MR. STRAUS: In addition, your Honor, I have
16 an exhibit which is F for identification.

17 Do you have the original now? It's been
18 received in evidence.

19 MR. SASSOWER: I have it.

20 MR. STRAUS: This is a photocopy and I
21 don't know --

22 THE REFEREE: I don't have it.

23 MR. SASSOWER: Are you holding onto the
24 originals in evidence?

25 THE REFEREE: I don't think he's seen it, is

1
2 what I mean.

3 MR. SASSOWER: I'm sorry. Am I correct,
4 Judge, I don't think you have seen it, it was
5 marked for identification.

6 I have a photocopy of it, but I have a feel-
7 ing that another one was marked for identification
8 and a photocopy was made.

9 THE REFEREE: Are you talking about Exhibit F?

10 MR. STRAUS: Yes. That's all I wanted to
11 bring to your attention, your Honor.

12 THE REFEREE: Which copy was marked in evi-
13 dence?

14 MR. STRAUS: Mr. Sassower has it, Judge,
15 somewhere.

16 Do you need those exhibits or have you looked
17 at them, so we can put them back with the exhibits?
18 Those are part of the items in evidence, the two
19 sheets, the two summonses that I have handed you.

20 MR. SASSOWER: I'm confused. I thought you
21 said that His Honor has all the exhibits.

22 MR. STRAUS: Those were marked for identifi-
23 cation.

24 He had not seen this exhibit yet, to my know-
25 ledge.

1
2 He had previously seen the exhibits
3 which were marked in evidence.

4 It is my understanding that each party holds
5 onto the exhibits until the conclusion of the
6 hearing, at which time, we deliver them to Judge
7 Potoker.

8 Is that correct, your Honor?

9 THE REFEREE: Yes.

10 MR. SASSOWER: I'll give them back to you in a
11 moment.

12 THE REFEREE: Thus far, the only exhibits in
13 evidence as Respondent's Exhibits are Exhibit B,
14 F, Q is in evidence, T is in evidence, and II.
15 Those are the only --

16 I beg your pardon. LL and OO and that's it.

17 MR. STRAUS: I think III may be in evidence.

18 THE REFEREE: Yes, Triple I is in evidence.

19 MR. STRAUS: And Triple H.

20 THE REFEREE: Yes, right.

21 MR. SASSOWER: Triple H?

22 MR. STRAUS: Yes. What are we up to,
23 quadruple A, but that's not in evidence.

24 MR. SASSOWER: The first thing that I'd like
25 to state in going through this matter is these

actions were not redundant, that is, they were not, because of --

THE REFEREE: Thirteen and Seventeen.

MR. SASSOWER: Most of these actions --

THE REFEREE: What about Thirteen and Seventeen?

MR. SASSOWER: Right.

THE REFEREE: Same fraud?

MR. SASSOWER: No, no, no. That's what I want to bring to your Honor's attention.

Which one is this?

MR. STRAUS: There should be a number in light pencil on the upper part of it.

That's Seventeen.

MR. SASSOWER: You see, your Honor, Number Seventeen is for conduct -- the nature of the action -- extrinsic fraud in procuring the order entered January 24, 1985, which is exhibit -- which is the Gammerman order.

The reason I say entered January 24, '85, is because it is dated January 23rd, 1985, but, there are two Gammerman orders dated January 23rd, 1985. This is an action based upon extrinsic fraud, and, if you look at New York Jurisprudence --

1
2 what section -- I don't remember offhand --
3 it cites cases which state that; one, when a
4 matter is the subject of extrinsic fraud, it
5 is totally void. And, two, it's actionable.

6 So that we claimed, although we obeyed the
7 Gammerman order, we did two things with the
8 Gammerman order.

9 One. We brought a proceeding to declare
10 it null and void.

11 And, the second thing we did was bring an
12 action for damages based upon that order.

13 And the reason I bring this out is because I
14 don't want your Honor or anybody to get the impres-
15 sion that these were actions based on the same
16 thing.

17 Now, to the same extent, when they levied,
18 whether it be on my account, or on Hyman Raffé's
19 account, based upon phantom judgments, which
20 really didn't exist, and, based on phantom judg-
21 ments, many times the amount of the judgment,
22 just to give you an idea, by example, the Feltman
23 firm has no judgment against me for five thousand
24 dollars.

25 They have taken money that I hold in trust for
my daughter.

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They have taken my escrow.

MR. STRAUS: Objection. Again, Mr. Sassower now is off the track.

He's not testifying with respect to the allegations.

MR. SASSOWER: All right, I'm telling you that the basis -- you don't put down in your list, sir, the basis for the action, so, for example, in Seventeen, that's based on something that happened in 1985, and not based on something different.

With respect to Item Thirteen -- I'm trying to refresh my recollection as to what Item Thirteen is at the moment --

Let me skip over it for a moment. It was for something they did.

THE REFEREE: Well, you moved to have Nassau County being designated as the --

MR. SASSOWER: That may have been just a mistake.

THE REFEREE: Does that give you a clue as to what the action was about?

MR. SASSOWER: No. It should.

THE REFEREE: Then you had all the law firms,

Kreindler and Relkin, Feltman and Karesh, Arutt and Machamie.

While under Seventeen, you also included Citibank, North America and Barr.

MR. SASSOWER: For the moment, I don't remember what that was.

THE REFEREE: Let's get to Eighteen.

MR. SASSOWER: I'll go back to the word precessor and see what happened about that time.

Eighteen also I have to see the summons.

THE REFEREE: Pardon?

MR. SASSOWER: I have to see the summons.

THE REFEREE: February 13, '85. No recollection?

MR. SASSOWER: No.

MR. STRAUS: With respect to this charge, there is, in fact, a summons and attached to that is --

MR. SASSOWER: I know what it is. Give me that. That's very interesting.

THE REFEREE: Is that an exhibit?

MR. STRAUS: That's part of the exhibit, your Honor.

MR. SASSOWER: This I'd like to offer into

evidence.

MR. STRAUS: It is in evidence, Mr. Sassower. It's part of Exhibit 12. It refers to Number Eighteen.

MR. SASSOWER: I think if I can spend a moment or two on that -- it may explain and save a lot of time.

Let me get my copy of it. May I look at the exhibit?

THE REFEREE: Go ahead.

MR. SASSOWER: I want to spend a few minutes on it, because, it will clear up, your Honor --

THE REFEREE: My notes indicate that Exhibit 12 are papers that were filed --

MR. STRAUS: That correspond --

THE REFEREE: To Ten and Eleven.

MR. STRAUS: -- these are papers filed which correspond to Schedule One. The lawsuits commenced.

THE REFEREE: Yes.

MR. STRAUS: And that's why he's being handed the various copies of the summonses which are part of the exhibit.

MR. SASSOWER: Right. This, your Honor, this

1
2 is in evidence, right?

3 MR. STRAUS: Yes.

4 THE REFEREE: This summons and complaint
5 was a summons and complaint, the charges, damages
6 arising out of the Judge Gammerman order of
7 January 23rd, 1985.

8 There are two Judge Gammerman orders of
9 January 23rd, 1985.

10 MR.SASSOWER: I'm sorry, I'm sorry. Withdraw
11 that. I made a mistake. Okay.

12 Now, this is an improper -- your Honor --
13 Mr. Straus -- your Honor, will you follow me,
14 please?

15 THE REFEREE: Go ahead, sir.

16 MR. SASSOWER: Mr. Straus, this summons and
17 complaint -- I don't know where you got it from,
18 but Exhibit A should be crossed out, because it
19 must have been an exhibit to something else.

20 This is a summons and complaint; attached
21 to the complaint in this case is Exhibit A, which
22 is not here. Okay.

23 If you will read the complaint, your Honor,
24 you will see, one, what they were doing, and, two,
25 that we had valid causes of action.

These were not redunant.

MR. STRAUS: If your Honor pleases, if I may, just for a second, Mr. Sassower has thus far, failed -- I don't know whether he intends to, but perhaps, again, to keep things orderly, as part of his testimony, he might indicate which if any of these actions had a result, because thus far, he hasn't indicated the results of any of these proceedings.

And, that's just for the purpose of, as long as he's going through the schedule one by one, perhaps that's the best way or the best time to indicate what the outcome was of these various things.

Obviously, he's not bound by that, but I think if we're going to keep an orderly procedure, I would suggest that this procedure be followed.

MR. SASSOWER: This is still pending. Okay. Let me give you what is attached to this, which is Exhibit A. Respondent's D for identification. What happened to the other one?

MR. STRAUS: You left it here on the table, Mr. Sassower.

MR. SASSOWER: When you read the complaint here,

1
2 and you read Paragraph Ten, it says Exhibit A.
3 Exhibit A is Respondent's D for identification.

4 Now, Respondent's D for identification --

5 THE REFEREE: Respondent's B.

6 MR. SASSOWER: "D" like in dog.

7 Respondent's D for identification, is a document,
8 which I found in the file of the County Clerk's
9 office about February 10.

10 Now, if your Honor will look at it, we can
11 save a lot of time.

12 This is an order supposedly settled at
13 Special Term, Part 1.

14 The affidavit of service is a fake, false.
15 If you know anything about New York County or any
16 county, that -- and, if you read the complaint,
17 it sets forth -- that order was never submitted
18 to Special Term, Part 1. It was never checked in
19 Special Term, Part 1. It was never entered in
20 the books of Special Term, Part 1. Before it went
21 to Judge Gammernan --

22 THE REFEREE: But it was signed by Judge
23 Gammernan.

24 MR. SASSOWER: Wait a second, let's go further.
25 An order is no good until it is entered. That's the

first thing.

The second thing is, it says there, "There being no opposition." Baloney. It was a fake order signed by Judge Gammerman.

MR. STRAUS: Objection. This is --

MR. SASSOWER: It's in evidence.

MR. STRAUS: Mr. Sassower, that's not in evidence.

What you are referring to is not in evidence. It was marked for identification.

MR. SASSOWER: No.

MR. STRAUS: Sir, whether that's in evidence or not, your testimony is totally irrelevant because there is an order which was received.

Judge Potoker has told you --

MR. SASSOWER: It's not an order.

MR. STRAUS: The order is not an order, according to Sassower.

THE REFEREE: You wanted me to read it and there it is.

MR. SASSOWER: No, no.

THE REFEREE: It's signed by Judge Gammerman. You didn't like the order. You knew what you had to do.

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MR. SASSOWER: Let me finish.

MR. STRAUS: Objection.

THE REFEREE: We have an affidavit of service.

MR. SASSOWER: It's a forgery.

THE REFEREE: It was served upon Mr. Raffe.

How do you know?

MR. SASSOWER: I know.

THE REFEREE: Mr. Raffe didn't say it was a forgery.

MR. SASSOWER: Yes, he did.

THE REFEREE: Are you representing that he testified to that?

MR. SASSOWER: Here? No.

MR. STRAUS: May I request that you again direct Mr. Sassower to testify with respect to the charges?

MR. SASSOWER: I want to say --

MR. STRAUS: You want to say anything else that comes to your mind.

MR. SASSOWER: This is not a frivolous action. This is not a redundant action.

THE REFEREE: Judge Gammerman's order is a fraud? What did you say it is?

MR. SASSOWER: It's a nullity, first of all.

1
2 There are a number of cases, Jemusa, the
3 leading case, that an order is not an order until
4 it is entered.

5 This never went through Special Term, Part 1
6 going up.

7 This never went through Special Term, Part 1
8 going down.

9 This never went through the County Clerk's
10 office. This was just filed, on top of that.

11 THE REFEREE: Well, when you say, "filed,"
12 it was signed by Judge Gammerman.

13 MR. SASSOWER: No, he didn't, nobody knew
14 about it.

15 THE REFEREE: When you say, "nobody knew
16 about it" --

17 MR. SASSOWER: It's in none of the books.

18 THE REFEREE: Kreindler and Relkin got
19 copies, Hyman Raffe's --

20 MR. SASSOWER: It says that. I can prove
21 that's a forged affidavit of service.

22 MR. STRAUS: Mr. Sassower has said this
23 same thing. It's a forgery. It's a fraud.

24 MR. SASSOWER: Do you want me to show you --

25 MR. STRAUS: No, I don't want you to show us.

1
2 THE REFEREE: You should have done that
3 in the Supreme Court of New York County --

4 MR. STRAUS: This is not the forum.

5 THE REFEREE: As of this moment, I have in
6 front of me an order of Judge Gammerman.

7 MR. SASSOWER: No, you don't, your Honor.
8 You have an action based upon that document.
9 You have an action --

10 MR. STRAUS: The order has been received in
11 evidence.

12 MR. SASSOWER: No.

13 MR. STRAUS: It hasn't been received in evi-
14 dence?

15 MR. SASSOWER: No. That's an exhibit attached
16 to the summons and complaint. That's an exhibit.
17 O-R-D-E-R.

18 And if you put down that's a barn, it
19 doesn't make it a barn, Judge.

20 I'm telling you that the only -- nobody said
21 we violated or anything else. What we did -- we --

22 MR. STRAUS: Objection, your Honor. Can we
23 get back to the charges?

24 He can testify --

25 THE REFEREE: It was dismissed by Judge

Gammerman.

MR. SASSOWER: Not, it wasn't.

THE REFEREE: Notice of motion of Hyman Raffé, re-signed an order vacating the order of this court dated April 6, '83, are each vacated and dismissed.

MR. SASSOWER: That's prior motions. This so-called order --

MR. STRAUS: Judge, I'm objecting.

THE REFEREE: You have said it wasn't, it was a nullity.

Let's get to Nineteen.

MR. SASSOWER: This is part of the summons and complaint. This is not redundant. This is a separate action, okay, based on what they did.

Would you like me to explain what they did, since your Honor said a couple of words on it?

THE REFEREE: You already told me.

MR. SASSOWER: No.

THE REFEREE: You said they slipped it through Judge Gammerman, without going through Special Term Part One, and he signed it, and it's a nullity. Okay.

MR. SASSOWER: There's something else you said.

1
2 Give me a minute. There were three motions.
3 Two of them were sub judice, before other judges,
4 which had been submitted, to investigate what the
5 receiver was doing, including the procurement of
6 Rashba and Pokart.

7 They got this, and Judge Gammerman told
8 his colleagues --

9 MR. STRAUS: Objection.

10 MR. SASSOWER: This is part of the order --

11 MR. STRAUS: Objection.

12 MR. SASSOWER: -- to dismiss motions that
13 they had under consideration.

14 THE REFEREE: Mr. Sassower, all he says is
15 it's dismissed.

16 MR. SASSOWER: How can he dismiss it?

17 THE REFEREE: I don't know, but he didn't
18 tell his colleagues.

19 MR. SASSOWER: He did.

20 THE REFEREE: You were there?

21 MR. SASSOWER: Here it is.

22 THE REFEREE: What does it say?

23 MR. SASSOWER: Okay. "Ordered that a
24 notice of motion of Hyman Raffe dated December 5."

25 THE REFEREE: Which I read.

1
2 MR. SASSOWER: And another notice of
3 motion, dated December 5; and, a motion dated
4 November 29 are each vacated and dismissed.

5 THE REFEREE: He vacated and dismissed them.

6 MR. SASSOWER: He didn't tell his colleagues
7 to do so.

8 They had it for decision.

9 He tells his colleagues, "They are vacated
10 and dismissed."

11 THE REFEREE: Do you have any documentary evi-
12 dence?

13 MR. SASSOWER: Yes.

14 THE REFEREE: Where?

15 MR. SASSOWER: Because they vacated and dis-
16 missed it.

17 THE REFEREE: Next. Go to Number Nineteen.

18 MR. STRAUS: May we have that back, Mr. Sasso-
19 wer, if you are finished, so we can put it back in th
20 exhibits, since you are moving on.

21 MR. SASSOWER: This is marked in evidence.

22 MR. STRAUS: Yes. That's why we're keeping
23 it as part of that exhibit.

24 All of these.

25 MR. SASSOWER: If it's marked in evidence,

1
2 why isn't it marked?

3 MR. STRAUS: Because the entire folder
4 was marked in evidence.

5 MR. SASSOWER: Fine, okay. "I" is attached
6 to it, and, I'd appreciate it if you would
7 cross out "Exhibit A," because it is not Exhibit A.

8 Cross out Exhibit A, please.

9 MR. STRAUS: I 'm not crossing out anything.
10 It's in evidence.

11 MR. SASSOWER: Objection.

12 MR. STRAUS: That was the time that you
13 could have objected.

14 MR. SASSOWER: Judge, the ruling at that
15 time was that subject to inspection it was received
16 in evidence.

17 THE REFEREE: What is it you wish?

18 MR. SASSOWER: Cross out the top.

19 MR. STRAUS: I have no objection to crossing
20 out Exhibit A, or, in fact, I don't have to cross
21 it out.

22 I can indicate to you that it's not offered
23 for the purpose of Exhibit A.

24 MR. SASSOWER: Cross it out.

25 MR. STRAUS: It makes no difference to me.

THE REFEREE: "A" or "Eighteen?"

MR. STRAUS: It says Exhibit A on the bottom.
It's taped on.

It apparently was part of something.

MR. SASSOWER: Now --

MR. STRAUS: Not now, Mr. Sassower. Can we
have it back and go on to Nineteen?

MR. SASSOWER: Can your Honor not show that
Exhibit A that's mentioned in that summons and
complaint is Respondent's --

MR. STRAUS: There isn't any exhibit A mention-
ed.

MR. SASSOWER: It's so. Look at Paragraph Ten.

MR. STRAUS: In the complaint?

MR. SASSOWER: Yes.

MR. STRAUS: I thought you were talking about
Exhibit A.

MR. SASSOWER: Exhibit A in the complaint
refers to Respondent's D for identification. Okay.

So, if Eighteen is in evidence, it's not
complete, so I object to that summons and complaint
as being incomplete, unless you put Respondent's
Exhibit D for identification as part of it, other-
wise it's an incomplete summons and complaint.

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2 MR. STRAUS: I don't know anything about
3 an Exhibit D for identification.

4 MR. SASSOWER: I'm testifying about it.

5 THE REFEREE: You have Respondent's Exhibit D
6 for identification.

7 MR. SASSOWER: It should be part of that
8 summons and complaint.

9 THE REFEREE: Where is it?

10 MR. SASSOWER: Here it is.

11 THE REFEREE: He wants --

12 MR. STRAUS: No objection, your Honor.
13 We'll add -- we can actually physically staple
14 it.

15 THE REFEREE: As part of that.

16 MR. STRAUS: It's part of the summons and
17 complaint which referred to Number Eighteen.

18 We have a paper clip. We can clip that as
19 well.

20 Now can we go on to Nineteen?

21 THE REFEREE: Nineteen, Raffe versus
22 Citbank, Jerome Barr, Kreindler and Relkin,
23 March 19, 1985, Supreme Court, New York County.

24 MR. SASSOWER: Can I see the summons on
25 that?

1
2 There are two or three that I'm confusing
3 with the others.

4 MR. STRAUS: May the record indicate that
5 the exhibit was handed to Mr. Sassower?

6 THE REFEREE: It will so reflect.

7 MR. SASSOWER: Yes, that's the one. Very good.

8 This is the one pending. Kreindler and Relkin
9 made a motion.

10 THE REFEREE: Case is still pending, you
11 said.

12 MR. SASSOWER: Better than pending.
13 Kreindler and Relkin made a motion to dismiss
14 this complaint on the grounds that it violated
15 Judge Gammerman's order.

16 Justice Bruce Mac M. Wright, Justice of
17 the Supreme Court, denied the motion to dismiss.

18 THE REFEREE: And ordered what?

19 MR. SASSOWER: And -- when they denied the
20 motion to dismiss, we sent out a notice of exami-
21 nation before trial.

22 In fact, I got a call yesterday that it's on
23 for conference, for trial and other purposes before
24 Judge Edwards in Supreme Court, New York County.

25 Again, let me state this -- I'll state it in

two parts. We'll save a lot of time.

MR. STRAUS: Mr. Sassower, whenever you say you are going to save a lot of time, I'm always somewhat suspicious.

MR. SASSOWER: Judge Wright --

THE REFEREE: You said he denied the motion to dismiss.

MR. SASSOWER: On its face it's violative of Judge Gammerman's order.

THE REFEREE: But --

MR. SASSOWER: Do you want me to answer the "But"?

THE REFEREE: Yes.

MR. SASSOWER: I have to go back a little bit. In the end of 1984, when you had the Diamond rules, Judge Blinn (phonetic), Judge Evans, Judge Danzig and a few other judges -- in fact, every one of them said --

MR. STRAUS: Objection.

THE REFEREE: Again, you are making broad statements, so far.

MR. SASSOWER: I'll give --

THE REFEREE: But you don't give. Don't make such broad statements.

1
2 MR. STRAUS: It's hearsay what other
3 judges said.

4 MR. SASSOWER: They denied, based upon
5 Referee Diamond's rules.

6 Finally, on January 7, which was really the
7 breaking day, out in open court -- because we
8 had motions that were going back between Judge
9 Danzig to Judge Sinclair, to --

10 THE REFEREE: Mr. Sassower, Number Nineteen.
11 What was your claim?

12 MR. SASSOWER: My claim --

13 THE REFEREE: You sued for what? Is this a
14 new suit?

15 MR. SASSOWER: Yes.

16 THE REFEREE: Old suit?

17 MR. SASSOWER: New suit.

18 THE REFEREE: For what?

19 MR. SASSOWER: Damages.

20 THE REFEREE: Damages for what, for what
21 reason?

22 MR. SASSOWER: For failure, for breach of
23 contract.

24 THE REFEREE: Breach of what contract?

25 MR. SASSOWER: We had given -- the Appellate

1
2 Division had ordered that Kreindler and Relkin
3 turn over their time sheets to us. We never could
4 get them.

5 So, finally, we gave them \$200 so that they
6 should turn over their time sheets, photostatic
7 time sheets.

8 THE REFEREE: In March, 1985, you were still
9 representing Mr. Raffe?

10 MR. SASSOWER: Of course I was.

11 THE REFEREE: And you are still representing him,
12 you said, the other day?

13 MR. SASSOWER: Every judge has denied -- if a
14 judge would say, "Sassower, get out, Postel goes
15 in," that's the end.

16 THE REFEREE: He did, the judges did. They
17 said it's --

18 MR. SASSOWER: Postel has made four or five
19 motions for substitution.

20 Every one has been denied or not granted.
21 Let's put it that way.

22 MR. STRAUS: Denied. Have any of them been
23 denied?

24 MR. SASSOWER: Or not granted.

25 MR. STRAUS: They haven't been decided.

1
2 MR. SASSOWER: They have been.

3 MR. STRAUS: What was the decision?

4 MR. SASSOWER: They didn't grant his motion.

5 MR. STRAUS: They didn't deny it.

6 MR. SASSOWER: I got the one yesterday.

7 MR. STRAUS: I withdraw the question.

8 MR. SASSOWER: I got it from Judge Schwartz.
9 I got it from Judge --

10 MR. STRAUS: Your Honor, can we get back to
11 Judge Schwartz?

12 MR. SASSOWER: What was given to Kreindler
13 and Relkin was a check for \$200 for the photostats.
14 It's attached to the summons and complaint.
15 Exhibit A.

16 They still refused to turn over their time
17 sheets as ordered by the Appellate Division.

18 So, one of the causes of action against them
19 was for breach of contract.

20 Again, I have to call -- I got a call
21 yesterday from Judge Edwards, conference on it
22 for Monday, for pre-trial procedure, and go to
23 trial. Pending. It's a good, live action.

24 Okay?

25 THE REFEREE: An action on whose behalf?

MR. SASSOWER: Hyman Raffe.

THE REFEREE: Mr. Raffe told you he doesn't want you to represent me.

MR. SASSOWER: Judge, I know what he told me, and I'm not going into a confidential relationship.

Mr. Raffe has been told -- they are in default already.

That whole thing, do you want me to get into it?

It will take fifteen minutes, but, don't stop me.

THE REFEREE: Go into what?

MR. SASSOWER: About whether I'm the attorney or not.

THE REFEREE: You have already made your legal position clear.

MR. SASSOWER: I'll --

MR. STRAUS: Judge, can --

THE REFEREE: If you want to contradict or refute the statement made by Mr. Raffe, go ahead.

MR. STRAUS: Can we reserve that until we get to Charge Six? It's a little difficult.

There is a Charge Six relating directly to

1
2 this.

3 THE REFEREE: I see in many of these actions,
4 Sixteen, Seventeen, Eighteen, Nineteen, Twenty,
5 Twenty-one, Twenty-two, with the exception of
6 one or two, they are all in behalf of Mr. Raffe.

7 MR. SASSOWER: I want to tell you something.
8 Mr. Straus -- Mr. Straus gave me the transcript.

9 In the transcript it says he signs these, he
10 verified them.

11 Let me get the transcript.

12 You want me to keep it for later or do it
13 now?

14 MR. STRAUS: I prefer that he testify
15 to Charge Six so we can keep this --

16 THE REFEREE: We're on Nineteen. Did you
17 violate? Were you violative of any court order?

18 You said on its face it's violative of
19 Judge Gammerman's order, but --

20 MR. SASSOWER: But --

21 THE REFEREE: -- but the matter is still open
22 because they tried to disqualify you and you are
23 still in the picture.

24 MR. SASSOWER: That's not what I said, your
25 Honor, and, please, let me say it my way, which

1
2 is the correct way, as I see it.

3 THE REFEREE: You said you moved for dis-
4 missal and Judge Wright denied it.

5 MR. SASSOWER: No.

6 THE REFEREE: I didn't make all this up.

7 MR. SASSOWER: You're putting it in the wrong
8 light.

9 MR. STRAUS: That's what you said.

10 MR. SASSOWER: Can I put it in the right
11 light?

12 THE REFEREE: Go ahead.

13 MR. SASSOWER: There were several actions
14 started at the same time.

15 THE REFEREE: By whom?

16 MR. SASSOWER: By me on behalf of Hyman
17 Raffe.

18 THE REFEREE: On the same subject matter?

19 MR. SASSOWER: No.

20 THE REFEREE: Differentiate that for me.

21 MR. SASSOWER: One was based upon the check
22 and for violating the mandatory directions of the
23 Appellate Division by Kreindler and Relkin. Okay.

24 There was one --

25 THE REFEREE: We're on Nineteen now.

MR. SASSOWER: Right. This one is March.

THE REFEREE: March of 1985.

MR. SASSOWER: This time, basically, against the Feltman firm -- for the purposes of this hearing, the same action against the Feltman firm.

Judge Saxe held me in criminal contempt, and Judge Wright said it's an invalid cause of action, and did not hold me in criminal contempt. In fact, voted in my favor.

So, you have two different judges taking two different positions.

MR. STRAUS: Objection. If Mr. Sassower wanted to offer the order of Judge Wright --

MR. SASSOWER: I'll bring it in.

MR. STRAUS: When are you going to do these things?

MR. SASSOWER: You'll have it today.

MR. STRAUS: I don't want it, but, if you are going to discuss it, I specifically made the request that if he is going to discuss something and offer it in evidence, let him have it with him.

He hasn't offered anything.

He talks about orders and decisions, and --

MR. SASSOWER: Why shouldn't you have --

MR. STRAUS: His decisions don't say anything like what he says they say.

MR. SASSOWER: Where did you get that from?

THE REFEREE: Mr. Sassower, no yelling.

MR. SASSOWER: Where does he get that from?

THE REFEREE: If you're all through with Nineteen, go to Twenty.

MR. SASSOWER: This is the one -- let's talk about Twenty.

THE REFEREE: April 10, 1985.

MR. SASSOWER: Twenty was started after we received Judge Shorter's order, which I'd like to offer into evidence.

It's M for identification.

THE REFEREE: Let me see it.

MR. SASSOWER: You say I don't show anything.

THE REFEREE: That's the first document you have offered to show us.

MR. SASSOWER: I wish I could bring all the files here, so I would show you, your Honor.

I think I have an extra copy for you.

THE REFEREE: What are you offering?

MR. SASSOWER: I'll tell you what happened.

1 THE REFEREE: What's the relevance of it?

2 MR. STRAUS: May I see that? I think we
3 objected on the grounds --

4 THE REFEREE: This predates the commencement
5 of your action.

6 Your action was commenced April 10, '85.

7 MR. SASSOWER: Absolutely. That's what I'm
8 telling you.

9 THE REFEREE: What are you telling me?

10 MR. SASSOWER: They went into court -- when I
11 say, "They," -- Kreindler and Relkin went into
12 court with big motion papers, both of them. It was
13 argued orally.

14 Everybody was there, including Dave Cook.

15 All sides argued and the question was --

16 THE REFEREE: We're on Twenty.

17 MR. SASSOWER: That's what I'm talking about.

18 THE REFEREE: Twenty is Raffe against
19 Riccobono, and according to this, it's in the
20 matter of Jerome Barr and Raffe.

21 MR. SASSOWER: Raffe against Riccobono, is
22 attached to the same type of order.

23 It was three orders together. Three captions
24 together.
25

1
2 THE REFEREE: Do you want to look at this,
3 Mr. Straus?

4 MR. STRAUS: Not really, but if he's offering
5 it in evidence --

6 THE REFEREE: I can -- I can't make head
7 or tail of it with relation to this point.

8 MR. SASSOWER: Judge, I can only explain it
9 to you.

10 THE REFEREE: Let Straus look at it.

11 MR. STRAUS: I really don't understand it,
12 really.

13 I think if he is offering it, it has to be
14 in commendation with some purpose, and you can't
15 come to it after you offer it.

16 MR. SASSOWER: I'll tell you the purpose,
17 then I'll offer it. Okay?

18 THE REFEREE: Go ahead.

19 MR. SASSOWER: Referee Diamond, and Judge
20 Gammerman, both, for the purpose of this hearing,
21 had the same rulings, that you had to ask their
22 permission in order to bring an action. Okay?

23 THE REFEREE: Did you get their permission?

24 MR. SASSOWER: Wait a second.

25 When Judge Danzig said, "No" -- okay --

THE REFEREE: Said when, to whom and when?

MR. SASSOWER: January 7.

THE REFEREE: Said "no" to what?

MR. SASSOWER: That she doesn't need
Referee Diamond's permission.

She was sovereign in her part and nobody was
going to tell her what to do.

She came --

MR. STRAUS: Judge, what does this have to
do --

Judge Danzig's order was stayed two days
after.

What does this have to do with this?

MR. SASSOWER: So, what happened was that
Kreindler and Relkin and the Feltman firm went
to Special Two, got an order to show cause, two
of them, returnable in Special Term, Part One.

Judge Shorter was sitting that day.

It was organized extensively.

Judge Shorter ruled by that order that the
fact that you --

It reads for itself, but it says, in effect,
that you can make a motion, you can start an
action, and they cannot dismiss it based upon a

violation of any rule whatsoever. Okay? You have to read that order.

THE REFEREE: What's the relevance to Twenty? April 10, '85, you commenced an action. What was the nature of the action?

MR. SASSOWER: Obstruction of justice.

MR. STRAUS: How is that related to it?

MR. SASSOWER: Wait a second.

MR. STRAUS: You are offering a document in evidence, and you are supposed to be making an offer, and you have testified to nothing which relates to the lawsuit.

MR. SASSOWER: Absolutely. I'll tell you why.

MR. STRAUS: I wish you would. I'm sure Judge Potoker wishes so, also.

MR. SASSOWER: This action was started immediately after, not immediately after, within two weeks after. Judge Shorter held --

THE REFEREE: We have already --

MR. SASSOWER: Let me finish it.

THE REFEREE: We have had it four or five times. Judge Shorter's order. You submitted it.

MR. SASSOWER: I'd like to mark it in evidence.

1
2 THE REFEREE: For what purpose?

3 MR. SASSOWER: To show that Judge Shorter
4 held --

5 MR. STRAUS: That there was an obstruction of
6 justice?

7 MR. SASSOWER: That we were not barred from
8 commencing these actions.

9 THE REFEREE: Which actions? You have yet
10 to mention it.

11 MR. SASSOWER: Number Twenty was not commenced
12 until April 10, 1985, and, Judge Shorter's order
13 is March of 1985. You're right.

14 But, this was on the same order.

15 Now, it doesn't matter -- Referee Diamond
16 said -- he changes his rules a million times --
17 said -- for the purpose of your statement --

18 THE REFEREE: Let's go on.

19 MR. SASSOWER: I offer it in evidence.

20 MR. STRAUS: Objection.

21 THE REFEREE: Sustained.

22 MR. SASSOWER: He says we can do it and then
23 Judge Klein -- Judge Wright says we can do it.

24 MR. STRAUS: If you honestly believe that
25 this says --

1
2 THE REFEREE: You show me.

3 MR. SASSOWER: I'll show it to you.

4 THE REFEREE: You haven't shown us anything.

5 MR. SASSOWER: I'll show you Judge Cohen,
6 Judge Blinn, Judge Evans.

7 Are you kidding me?

8 THE REFEREE: I'm not kidding you. You're
9 trying to kid me.

10 MR. SASSOWER: Motion by the receiver to
11 vacate two notices of motion.

12 This is on the basis, that if you look at
13 the order to show cause, that it didn't comply
14 with the Diamond rules, is denied. The CPLR
15 does not provide for said relief.

16 Furthermore, the receiver can --

17 MR. STRAUS: Do we have to have Mr. Sassower
18 read it?

19 MR. SASSOWER: Furthermore, the receiver
20 can submit in opposition to the motions, raising
21 the same arguments.

22 THE REFEREE: You were not the receiver.

23 MR. SASSOWER: I was opposing it. The
24 receiver made the motion, the receiver --

25 THE REFEREE: In Number Twenty, you weren't

opposing anything.

You brought an action on behalf of Mr. Raffe charging certain persons with obstruction of justice.

You just said so.

MR. SASSOWER: We made three motions.

MR. STRAUS: You keep saying, "No."

The Referee makes --

You say, "No."

THE REFEREE: You just said so.

MR. SASSOWER: Let me restate it. We made three motions.

THE REFEREE: To what effect? What was the nature of the motions?

MR. SASSOWER: One was to vacate the judgment against Raffe, which was procured by perjury and fraud, returnable --

THE REFEREE: Mr. Sassower --

MR. SASSOWER: You asked me a question.

THE REFEREE: In the meantime, you add something for which there is no basis, or, at least, you haven't presented anything.

MR. SASSOWER: Let me finish my answer.

THE REFEREE: Everybody stacked the cards

Sassower

1922.

against you.

MR. SASSOWER: You want to see the documents, please?

You want to see the documents or you don't want to see them?

THE REFEREE: What documents?

MR. SASSOWER: I'll show you documents.

THE REFEREE: Let's go on with Number Twenty.

MR. SASSOWER: I want to answer your question. We made three motions.

THE REFEREE: You told me that.

MR. SASSOWER: Wait a second. Let me finish. They came in with two orders to show cause saying "You can't do this, because, first it violates Referee Diamond's rules," and afterward, they said it violates Judge Gammerman's rules.

Judge Shorter said we can do it. We can make our motions even though it violates the rules, and if they feel that the action or the motion should be dismissed because it violates the rules, you put that up as a defense.

Right after we did this, we got that order from Judge Shorter, we started Action Number Twenty, based on the fact that Judge Shorter said we could

do it.

Now, in addition, in Action Number Twenty, Dave Cook had conceded that the Gammernan order did not apply to him or his clients.

Schneider and Kreindler and Relkin came in with still another contempt motion, contempt against me, contempt against Polur, saying -- Schneider saying that Polur served the summons, and I tell you, and nobody even denies it anymore --

MR. STRAUS: Your Honor, what does this have to do with the charge?

THE REFEREE: Let's go on to Twenty-one.

MR. SASSOWER: So we started the action, that's all.

We had permission. It was okay.

THE REFEREE: All right.

MR. SASSOWER: Twenty and Twenty-one were the same thing.

It was something that happened on two different days, so, we served one summons for the things that happened one day, and we served another summons for something that happened two days later, and they were combined.

THE REFEREE: It's dated April 23rd, 1985.

1
2 Thirteen days later you commenced the
3 action.

4 MR. SASSOWER: It may have been thirteen days
5 later, but as far as the --

6 THE REFEREE: You had Judge Schackman and --

7 MR. SASSOWER: You don't want me to go into
8 what the action was about, but it was not duplica-
9 tive.

10 THE REFEREE: What was the action about?

11 MR. SASSOWER: Twenty-one?

12 THE REFEREE: What was the action about?

13 MR. SASSOWER: It happened at different times.

14 MR. STRAUS: It's here, Mr. Sassower. It's a
15 summons, which is in evidence.

16 Do you want to look at it?

17 MR. SASSOWER: Your Honor asked me what it's all
18 about.

19 MR. STRAUS: It's a one million dollar judg-
20 ment.

21 MR. SASSOWER: Do you want me to tell you the
22 details of that, your Honor?

23 It will take me at least a half hour, and
24 they're --

25 THE REFEREE: Did you file the action?

MR. SASSOWER: Sure.

THE REFEREE: Was it redundant?

MR. SASSOWER: No, absolutely not.

THE REFEREE: A new action and had nothing to do with any previous action?

MR. SASSOWER: Yes.

THE REFEREE: Was it violative of any court order?

MR. SASSOWER: Not that I know of, because if it was, I would have gone right across the street to the federal court.

Again, Judge Shorter said, "No."

THE REFEREE: Raffe against Relkin, Kreindler, and Relkin, Citibank.

What was that about?

MR. SASSOWER: I'm sorry. I had made a mistake, because I remember there were two. Twenty, Twenty-one, and Twenty-two are on one title.

THE REFEREE: Same as Twenty.

MR. SASSOWER: No. They're on one title. If you look at the Klein order, he has Twenty, Twenty-one and Twenty-two. When he issued a summons -- Twenty-one -- because of certain

events that took place around --

THE REFEREE: What was the relief sought on
Twenty-two?

MR. SASSOWER: Money damages.

THE REFEREE: Damages again?

MR. SASSOWER: Yes.

THE REFEREE: You already filed for a
million dollars.

MR. SASSOWER: Something happened the next
day.

MR. STRAUS: According to the exhibit, it's
a million and a half dollars for fraud, deceit,
and violation of the judicial law.

MR. SASSOWER: I can give you the evidence
on it.

It's horrible.

THE REFEREE: This is the wrong place to
give it.

The law enforcement agencies --

MR. SASSOWER: We're taking care of it.
Don't worry about it.

THE REFEREE: I'm not worried about it.

MR. SASSOWER: I'll say something, because
your Honor made the remark -- your Honor made a

remark, somehow or somewhat, and I'm not --

THE REFEREE: Be specific.

MR. SASSOWER: I'll try to be.

THE REFEREE: Has it anything to do with
Twenty-two?

MR. SASSOWER: Yes.

THE REFEREE: Go ahead.

MR. SASSOWER: Your Honor, made the remark,
and properly so, see -- I'll give you credit -- that
I shouldn't insult his Honor's intelligence.

On the other hand, I knew from junior high
school civics that in the United States of
America, unless you plead guilty, you have to get
a trial.

So, I'll not insult his Honor's intelligence

But, on the other hand, what --

MR. STRAUS: What charge are we talking about?

MR. SASSOWER: I was thrown in jail without
a trial for this.

MR. STRAUS: That's why you sued.

MR. SASSOWER: So, I don't want anybody
to tell me something that I knew when I was in
junior high school civics and in engineering
school.

1
2 MR. STRAUS: Your Honor, will you direct
3 Mr. Sassower to testify?

4 MR. SASSOWER: You didn't have to be a
5 lawyer to tell that.

6 If you get a parking ticket --

7 MR. STRAUS: I don't know what Mr. Sassower
8 is talking about.

9 THE REFEREE: Twenty-two. New action. Not
10 redundant?

11 MR. SASSOWER: No. Absolutely not.

12 THE REFEREE: Not violative of any court
13 order?

14 MR. SASSOWER: No, Judge. If it's violative,
15 I go across the street to federal court.

16 THE REFEREE: Twenty-three. Raffe against
17 Feltman, Karesh and Major?

18 MR. STRAUS: It's for \$500,000 for unlawful
19 restraint and malicious prosecution.

20 MR. SASSOWER: They go ahead, Feltman,
21 Karesh and Major, goes ahead and levied on
22 Raffe's bank account for many times the amount
23 when there's not even a judgment.

24 This is something that I argued in the
25 Court of Appeals twenty years ago, eighteen years

ago.

THE REFEREE: Why a separate action?
You already had Twenty, Twenty-one, Twenty-two
and now Twenty-three.

MR. SASSOWER: Judge, there may be different
days.

THE REFEREE: All in April. April 10, 23rd,
April 24. This was April without a date on it.

MR. SASSOWER: Judge --

THE REFEREE: This is not redundant?

MR. SASSOWER: No.

THE REFEREE: Not violative?

MR. SASSOWER: Absolutely not.

THE REFEREE: Twenty-four.

MR. SASSOWER: This is the same action was
with Judge Wright.

THE REFEREE: Twenty-four.

MR. SASSOWER: The only --

THE REFEREE: How did you get involved in
Twenty-four?

It was filed May 16, '85.

MR. STRAUS: He's listed as the attorney
for Puccini Clothes.

MR. SASSOWER: No, no.

1
2 MR. STRAUS: Mr. Sassower, it lists you
3 as the attorney for Puccini Clothes.

4 MR. SASSOWER: Have you got the complaint?

5 MR. STRAUS: Right here.

6 THE REFEREE: Mr. Sassower, the plaintiff
7 was Puccini Clothes and others.

8 Who filed the papers?

9 MR. SASSOWER: I did.

10 THE REFEREE: So you represented Puccini
11 Clothes.

12 MR. SASSOWER: In federal court. This is
13 federal court.

14 THE REFEREE: I don't care where it is.

15 MR. SASSOWER: There's a big difference.
16 I wouldn't do this in state court.

17 THE REFEREE: Not in state court. You were
18 not barred in the federal court.

19 MR. SASSOWER: I have Supreme Court decisions
20 right on point.

21 THE REFEREE: Sir, I'm just asking you.

22 MR. SASSOWER: Right.

23 THE REFEREE: You filed the papers in
24 federal court in this action, and --

25 MR. SASSOWER: Right.

1
2 THE REFEREE: And it had nothing to do with
3 the state court.

4 The state court said you had no authority to
5 represent Puccini Clothes so you bypassed the
6 state and went to the federal court; is that what
7 you did?

8 MR. SASSOWER: No, I did something different.

9 THE REFEREE: You went into federal court.

10 MR. SASSOWER: I didn't do what you said.

11 THE REFEREE: You said the state order does
12 not apply to the federal court.

13 MR. SASSOWER: This was not a state cause of
14 action.

15 THE REFEREE: Therefore, you had a right to
16 go to the federal court.

17 MR. SASSOWER: It was strictly a federal cause
18 of action.

19 THE REFEREE: Whether it's federal or state,
20 did you have authority to represent Puccini Clothes?

21 MR. SASSOWER: Yes.

22 THE REFEREE: Go ahead and tell me how.

23 MR. SASSOWER: Okay.

24 THE REFEREE: What was the relief sought?
25

1
2 MR. STRAUS: For \$500,00, I think.

3 MR. SASSOWER: No.

4 THE REFEREE: You tell me.

5 MR. SASSOWER: Under the line of cases --

6 THE REFEREE: What did you seek? What relief
7 were you looking for in the federal court?

8 From justices of the Appellate Division,
9 First Department, what --

10 MR. SASSOWER: And the Feltman firm.

11 THE REFEREE: What?

12 MR. SASSOWER: I'll tell you.

13 THE REFEREE: Tell me now.

14 MR. SASSOWER: In a minute and a half.

15 THE REFEREE: Why does it take a minute and a
16 half?

17 MR. SASSOWER: I was looking for --

18 THE REFEREE: Money?

19 MR. SASSOWER: No. Evitts against Lucey.

20 MR. STRAUS: You were looking for Evitts
21 against Lucey?

22 MR. SASSOWER: Relief and, Anders against
23 California.

24 You want it that way or do you want me to
25 explain it?

1
2 THE REFEREE: I want it in simple English.
3 What was the nature of your complaint filed in the
4 federal court?

5 MR. SASSOWER: The nature of the complaint,
6 the nature of the complaint in the Southern Dis-
7 trict, the Supreme Court of the United States has
8 said --

9 THE REFEREE: Sir, I don't want to know what
10 the Supreme Court of the United States said.

11 I want to know what relief you were seeking.

12 MR. SASSOWER: Can I see the complaint?

13 MR. STRAUS: By all means.
14 It pertains to Schedule 24.

15 It's a copy of the papers filed in the federal
16 court.

17 MR. SASSOWER: The relief sought essentially
18 was that one who could not protect one's right in
19 the first appellate court, was entitled to aid of
20 competent counsel.

21 THE REFEREE: That's Anders against California.
22 It has nothing to do --

23 What relief did you seek?

24 Were you looking for money because somebody
25 did you in?

1
2 MR. SASSOWER: No. There are three causes
3 of action.

4 MR. STRAUS: Judge Potoker is asking what
5 are the two causes of action, Mr. Sassower?

6 We have a problem communicating.

7 THE REFEREE: Sir, --

8 MR. SASSOWER: Better still --

9 THE REFEREE: -- it's a simple matter. You
10 know what you wanted.

11 MR. SASSOWER: I want to say one thing.

12 THE REFEREE: Please sit down.

13 MR. SASSOWER: First of all, you want me to
14 answer what it says.

15 THE REFEREE: I don't want -- I don't know.
16 I don't want to know what it says.

17 You filed an action.

18 MR. SASSOWER: Anders against California.

19 THE REFEREE: You wanted money because
20 the Appellate Division, in your opinion, did
21 something wrong.

22 MR. SASSOWER: No. It was equitable relief.
23 That's not money damages.

24 THE REFEREE: What equitable relief were you
25 seeking?

1
2 MR. SASSOWER: The same relief that the
3 Scottsboro boys wanted from the United States
4 Supreme Court, the right to have counsel represent-
5 ing them. Okay? Period.

6 THE REFEREE: You said that Puccini had
7 a right to be represented by counsel and you
8 were counsel.

9 MR. SASSOWER: NO.

10 THE REFEREE: What then?

11 MR. SASSOWER: No. We said and we showed, no
12 question, that counsel was always betraying
13 Puccini, was always acting contrary to --

14 THE REFEREE: What did you want from the
15 associate justices of the Appellate Division?

16 MR. SASSOWER: Will you let me finish?
17 Because Anders against California and Saunders
18 against the state, which is Appellate Division,
19 First Department said that under the due process
20 clause of the United States constitution, the
21 first appellate court cannot --

22 MR. STRAUS: Judge, object to this.

23 MR. SASSOWER: You asked me a question.

24 MR. STRAUS: You didn't answer it.

25 I'm objecting because you are not responding.

1
2 THE REFEREE: First, I want an answer. Then,
3 I may permit you to go on.

4 MR. SASSOWER: What's the question?

5 THE REFEREE: I want to know what you wanted
6 from the justices of the Appellate Division.

7 You wanted money from them?

8 MR. SASSOWER: No.

9 THE REFEREE: You wanted them to resign?
10 What did you want?

11 MR. SASSOWER: Are you being sarcastic?

12 THE REFEREE: No, no, because you don't give
13 me an answer.

14 MR. SASSOWER: I'll tell you what. Let's
15 read the "Wherefore clause."

16 "Wherefore it is respectfully prayed that
17 an order be entered vacating the order of May 9,
18 1985, together with the underlying judgment
19 until such time as plaintiff is afforded constitut-
20 ional protection, whether it be in the state or
21 federal forum, together with any other further
22 relief that, to this Court, may seem just and
23 proper in the premises."

24 This is exactly the same relief that they
25 asked for in the Scottsboro case, in "Betts"

(phonetic) against Brady, in Evitts against Lucey.

The difference between them is that in Anders against California, is under due process, and the others is under full protection.

THE REFEREE: You have answered the question.

You said you were seeking equitable relief in that Puccini has a right to be represented by counsel and since Puccini had selected you as counsel --

MR. SASSOWER: No, no.

Let me explain it to you.

THE REFEREE: Wait.

MR. SASSOWER: I didn't want to represent Puccini.

THE REFEREE: Why did you file an action on Puccini's behalf?

MR. SASSOWER: Judge, will you listen? You are telling me to --

THE REFEREE: That's what it says.

MR. SASSOWER: What are you looking at? That was drawn up by Schneider, or, looking at the original --

MR. STRAUS: Look at your own papers.

1
2 MR. SASSOWER: Judge, please, you understand
3 what I'm talking about?

4 THE REFEREE: Sir, the heading is the same
5 on the Grievance Committee's exhibit and on yours.

6 "Puccini Clothes against" -- so, when you
7 file motions or actions with respect to Puccini
8 Clothes, you represented yourself as the attorney.

9 MR. SASSOWER: No.

10 MR. STRAUS: It says "Attorney for" on the
11 papers.

12 THE REFEREE: What right has any attorney to
13 file an action on behalf of a corporation if he
14 is not the attorney?

15 MR. SASSOWER: You want an answer?

16 THE REFEREE: Yes.

17 MR. SASSOWER: In the state court, in the
18 Court of Appeals, in the Bridge's case, the
19 Court of Appeals said there was standing under
20 similar circumstances.

21 In a lot of these civil liberties cases,
22 the Civil Liberty's Union came in.

23 THE REFEREE: With leave of the Court.

24 MR. SASSOWER: That's what I'm asking here.

25 THE REFEREE: You were no longer the attorney,

1
2 is that right, of Puccini Clothes?

3 MR. SASSOWER: Judge, will you listen?

4 THE REFEREE: Answer my question.

5 MR. SASSOWER: Under Barrows against
6 Jackson --

7 THE REFEREE: I want to know here,
8 the Grievance Committee versus George Sassower,
9 you were the attorney for Puccini at this time.

10 MR. SASSOWER: What does it say?

11 MR. STRAUS: The papers say that you are the
12 attorney.

13 MR. SASSOWER: What does it say?

14 THE REFEREE: Let's see what it says.
15 Let's have the papers back.

16 You have had them for a half hour.

17 MR. SASSOWER: I want -- read the opening
18 paragraph and read the clarification.

19 MR. STRAUS: More to the point, on the last
20 page it says "George Sassower, attorney for
21 Puccini Clothes."

22 MR. SASSOWER: Right.

23 MR. STRAUS: I thought you said to Judge
24 Potoker that you didn't represent Puccini Clothes.
25 Wasn't that what you said? I'm sorry.

I must have a problem with my hearing.

MR. SASSOWER: You have a problem with your hearing.

(Recess ensues)

THE REFEREE: I read the complaint. You filed it in Federal Court, Southern District.

Page 2, Paragraph B. "This action, on behalf of Plaintiff" --

MR. SASSOWER: Right.

THE REFEREE: On Page 18, you signed it Goerge Sassower, attorney for Plaintiff.

MR. SASSOWER: Right.

THE REFEREE: Plaintiff was Puccini Clothes.

MR. SASSOWER: Right.

Let's go one step further. Let's go two steps further.

Secondly, there is a verification on this complaint, in May.

May I read the verification by Hyman Raffe?

THE REFEREE: Go ahead.

MR. SASSOWER: "Hyman Raffe first being duly sworn deposes and says, I am a 25 percent stockholder in Puccini Clothes, Limited, and also have a judgment and other claims against Puccini

1
2 in a sum in excess of \$500,000. I verily
3 believe I have a constitutional right under the
4 circumstances set forth in the complaint to bring
5 this action on behalf of Puccini Clothes, Limited.
6 I have read the full complaint and same is true
7 of my own knowledge, except as it matters --"

8 Second thing, so, there was a full disclosure.

9 Secondly, this was signed by Hyman Raffe
10 on May 15, 1985.

11 I remember it very well.

12 Second thing. Nobody on the other side,
13 nor did the Court ever question the right to bring
14 this.

15 Thirdly, when I drew up this complaint,
16 I had before me, several similar complaints in
17 federal court.

18 I had the Harvard Law Review article.

19 I had the three cases that were cited by
20 Antieu, A-N-T-I-E-U, Federal Civil Rights, Second
21 Edition.

22 And ,let me tell you one thing that I
23 remember about this complaint very much.

24 In federal court --

25 THE REFEREE: Mr. Sassower --

MR. SASSOWER: Hy Raffe knew about this.

THE REFEREE: When Hy Raffe signed it, did you tell him, "Wait a minute, Mr. Raffe, you know that I have been precluded" --

MR. SASSOWER: Not in federal court.

THE REFEREE: --"from representing Puccini Clothes."

MR. SASSOWER: I'll tell you how we discussed it.

THE REFEREE: Did you tell that to him?

MR. SASSOWER: Of course we discussed it.

THE REFEREE: Let's go on. It's a new action, and it wasn't redundant.

MR. SASSOWER: I want to go one step further.

THE REFEREE: Not vexatious.

MR. SASSOWER: No. A beautiful action. Let me go one step further.

This was drawn up before I knew about Evitts against lucey.

I don't follow U.S. Law Week, because the print is too small for me to read.

I drew up this complaint and I was worried about one thing in order to have federal jurisdiction, you have to have a case or controversy.

1
2 The only way you can assure yourself of
3 standing, a case in controversy in standing, is to
4 ask for money damages, and this went over between
5 Polur and myself and Raffé also.

6 Should we ask for money damages and make sure
7 we have standing?

8 THE REFEREE: Did you ask for money damages?

9 MR. SASSOWER: No, we finally decided --

10 THE REFEREE: It was purely a --

11 MR. SASSOWER: Right. I drew up the
12 complaint, and, B, it hadn't been served yet,
13 or just about to be served, and Evitts against Lucey
14 was published in "Lawyers Edition."

15 I remember reading Evitts against Lucey
16 and it was rendered for this case.

17 So, it was just on all fours.

18 THE REFEREE: You said you had a right to
19 represent Puccini Clothes, is that right?

20 MR. SASSOWER: Under all the cases that I
21 read, yes.

22 No question about it, and to go one further
23 step, nobody challenged it, neither the Court
24 nor my adversaries.

25 THE REFEREE: What happened to the action?

1
2 MR. SASSOWER: The action was dismissed on
3 other grounds.

4 THE REFEREE: When was it dismissed?

5 MR. SASSOWER: You have Conner's decision
6 there.

7 MR. STRAUS: You do, too; it's attached to
8 the petition.

9 THE REFEREE: All right.

10 MR. SASSOWER: All right. I'm sorry. I want to
11 say one more thing.

12 We had about three conferences with Conner.

13 I do not recall once Judge Conner ever saying
14 there was anything improper about this action
15 insofar as the representation, but as far as I was
16 concerned, this verification, your Honor, this
17 is not an ordinary verification, your Honor, would
18 you agree with me?

19 THE REFEREE: What do you mean?

20 MR. SASSOWER: I set forth, "I verily
21 believe I have a constitutional right under the
22 circumstances set forth in the complaint to bring
23 this action against Puccini Clothes, Limited."

24 It sets forth, why and everything else.
25 Believe me, I copied and took from cases that

had been already introduced.

May I ask Mr. Straus, please, because I tried to get the answer and I couldn't, "Can you send me a photostatic copy of the last page, the verification of Hyman Raffe" and I haven't been able to get it.

MR. STRAUS: If you had availed yourself of the opportunity to come to our office to look at the documents in evidence --

MR. SASSOWER: Can you make me a copy?

MR. STRAUS: If you want to come to the office --

MR. SASSOWER: Will you make me a copy?

MR. STRAUS: I don't know that he needs it.

THE REFEREE: What do you want?

MR. SASSOWER: A copy of the verification.

THE REFEREE: Which verification?

MR. SASSOWER: Of Hyman Raffe.

THE REFEREE: It's right there.

MR. SASSOWER: But, I want a copy of it.
I have the blank.

I don't have the photostatic copy of it.

THE REFEREE: It's in evidence.

MR. SASSOWER: I asked for a simple request.

1
2 I'll --

3 THE REFEREE: Can you make a copy for him?

4 MR. STRAUS: Sure we can, your Honor.

5 THE REFEREE: Go ahead.

6 Number Twenty-four.

7 MR. SASSOWER: Number Twenty-four we just dis-
8 cussed.

9 THE REFEREE: All right. All right. Twenty-five.

10 MR. SASSOWER: Raffe, Sassower, et cetera.
11 Judge, there are four actions.

12 They are rather complicated.

13 At no time, over a space of --

14 THE REFEREE: It says -- this is seven days
15 after you filed the first federal action.

16 MR. SASSOWER: The first federal action is
17 October of 1984.

18 THE REFEREE: Sir, May 16, 1985, Puccini
19 against --

20 MR. SASSOWER: It's September of '84.
21 They were all before Conner in September of 1984.
22 This was told to --

23 THE REFEREE: We're up to Twenty-five.

24 MR. SASSOWER: I'll tell you why Twenty-four,
25 Twenty-five and Twenty-six --

Sassower

1947.

THE REFEREE: All the same, you say?

MR. SASSOWER: No. Why they were made three separate actions instead of one --

THE REFEREE: Twenty-six is also the Southern District, June 3rd?

MR. SASSOWER: Right. They were all compared. Actually, they were really drafted pretty much at the same time, and then they were split up to three parts for tactical reasons, and all assigned to Judge Conner, and, the reason, as we told Judge Conner, why we did it, certainly it cost us another \$120 extra, the reason we made it three different actions, is primarily is because the Federal Rules of Appealability -- in federal court, you can only appeal from the final judgment or the final order.

It's not like the state court and we thought that certain issues like the Puccini against Murphy, which were just discussed, should not get tied up in a quagmire of other actions, so, which is many times done in federal courts.

THE REFEREE: They were all referred to Judge Conner, and what did Judge Conner do?

MR. SASSOWER: He dismissed it.

1 THE REFEREE: He dismissed all three actions.

2 MR. SASSOWER: Yes. Four actions, actually.

3 THE REFEREE: Which one -- you said
4 Twenty-four, Twenty-five and Twenty-six.

5 MR. SASSOWER: Doe was filed a year before.

6 THE REFEREE: Raffe versus Doe. That was
7 dismissed too.

8 MR. SASSOWER: All dismissed as part of the
9 same thing.

10 MR. STRAUS: In fact, your Honor, Judge
11 Conner's decision is part of the pleadings as
12 well.

13 THE REFEREE: Yes.

14 MR. SASSOWER: I want to say one thing about
15 that.

16 THE REFEREE: About what?

17 MR. SASSOWER: about Judge Conner's decision.

18 THE REFEREE: Yes.

19 MR. SASSOWER: Unless you want me to explain
20 further, I'll say this, Judge Conner's decision
21 as Judge Nickerson's decision, is subject to
22 being vacated once we get access to the state
23 courts.

24 THE REFEREE: Sir, as of this moment, it is
25

1
2 still the rule of the case, right, it has not been
3 vacated.

4 MR. SASSOWER: I didn't say vacated.

5 THE REFEREE: You just said vacated.

6 MR. SASSOWER: I didn't say vacated in that
7 sense. Okay.

8 Once -- leave it the way it is because I
9 don't want to get really complicated with you.
10 You haven't got the papers.

11 You're simplifying but you're coming to the
12 wrong conclusion.

13 THE REFEREE: Sir, I asked you whether or
14 not Judge Conner took any action.

15 MR. SASSOWER: No. He dismissed it.

16 THE REFEREE: He dismissed all three
17 actions, including the other one.

18 What's the problem now? You said it's in
19 the process of being vacated.

20 MR. SASSOWER: I didn't say that.

21 THE REFEREE: Everything you say, you say you
22 didnt' say.

23 MR. SASSOWER: You just don't have any
24 patience.

25 THE REFEREE: I have no patience? You must be

1
2 facetious when you say I have no patience.

3 MR. SASSOWER: Let's put it different.
4 You come to a conclusion, and you want to know
5 why people are frustrated.

6 THE REFEREE: I didn't come to any conclusion.

7 MR. SASSOWER: You didn't come to a conclus-
8 ion before we got started?

9 First you have to understand what Judge
10 Nickerson did.

11 THE REFEREE: How did he get involved in it?

12 MR. SASSOWER: Because he was the first
13 action.

14 Judge Nickerson was in the Eastern District.
15 We're in the Southern District.

16 Are you all through with Twenty-four,
17 Twenty-five and Twenty-six?

18 The only thing that I am going to say, that
19 if anybody wants to examine me or ask me any
20 questions to tend to prove that any action was
21 vexatious, frivolous or anything like that, I'd be
22 happy to answer the question, but, as far as I am
23 concerned, nobody can show that these actions, and
24 I don't care what anybody says, anybody can have
25 their opinion, nobody can show that any action

here was redundant, frivolous, vexatious or et cetera.

THE REFEREE: Or in violation of any court order.

MR. SASSOWER: Or violative of any court order.

THE REFEREE: That goes for all twenty-five.

MR. SASSOWER: I want to answer that question also.

THE REFEREE: Let's go to Twenty-seven.

MR. SASSOWER: I want to explain.

THE REFEREE: That's your testimony. You said they are not.

MR. SASSOWER: There are times where you have no other choice.

THE REFEREE: You said that.

MR. SASSOWER: But to violate a court order and test it, but here I had options.

I didn't have to go to the state court in order to bring this action. I could have gone to federal court.

I could have done a million other things, if I thought that anybody would even contend that this is violative. I would have gone to the

1
2 federal court. I'm interested in substance, not
3 procedure. It's not like I had an alternative.

4 You go to the Court of Claims when you
5 want to sue the state.

6 If you're suing other people, you can't go to
7 the Court of Claims. You don't.

8 There are certain times you have no alterna-
9 tive, but where you have an alternative, for any
10 lawyer to chose to buck himself up against an
11 order, you have to be crazy, you have to be in-
12 sane, and, besides that, I have no doubt in my
13 mind and I know the judges pretty well, of the
14 Appellate Division --

15 MR. STRAUS: Objection.

16 MR. SASSOWER: -- you call them to the stand,
17 they will tell you -- they haven't got the power --

18 THE REFEREE: Again, you are making idle state-
19 ments.

20 MR. SASSOWER: Bring them here. You bring them
21 here and I challenge --

22 THE REFEREE: We're up to Number Twenty-seven.

23 MR. SASSOWER: Why don't you bring them here?

24 THE REFEREE: Go to Twenty-seven. George
25 Sassower. This is your action against everybody, is

Sassower

1953.

that right? Westchester County, you brought this one.

MR. SASSOWER: It's sustained so far. Could I have a copy of Twenty-seven?

THE REFEREE: On December 30, 1985, of recent vintage, Westchester County.

MR. SASSOWER: I haven't served the complaint yet. It's in preparation.

THE REFEREE: You haven't served the complaint?

MR. SASSOWER: No.

THE REFEREE: You only filed the summons?

MR. SASSOWER: No. It has an index number. Of course I filed the summons.

THE REFEREE: You filed a summons without a complaint.

MR. SASSOWER: That's not true.

THE REFEREE: A moment ago you said no complaint.

Now you did file a summons and complaint?

MR. SASSOWER: I filed a summons. They made a motion -- I served a summons on D'Amato.

THE REFEREE: Summons and complaint.

MR. SASSOWER: No, no, no.

THE REFEREE: Just a summons.

Sassower

1954.

MR. SASSOWER: Please, please; there are other alternatives.

You see what it says here?

THE REFEREE: No, just answer my question, first.

MR. SASSOWER: It says --

THE REFEREE: Don't tell me what it says.

MR. SASSOWER: -- it says "amended summons."

THE REFEREE: You filed a summons, is that right?

MR. SASSOWER: No.

THE REFEREE: You didn't? All right. Who filed the action in Westchester County on December 30, '85?

MR. SASSOWER: Okay.

THE REFEREE: Pardon?

MR. SASSOWER: I served.

THE REFEREE: Who filed the action?

MR. SASSOWER: I did.

THE REFEREE: How did you file it?

MR. SASSOWER: I made a motion on a case called George Sassower against D'Amatao and Lynch.

THE REFEREE: Was that a --

MR. SASSOWER: Let me finish.

1
2 THE REFEREE: Was that on a case? Where
3 did that case commence and where?

4 MR. SASSOWER: December 30, '85.

5 THE REFEREE: So you made a motion the same
6 day that you started the action?

7 MR. SASSOWER: No, no, no, no.

8 THE REFEREE: What do you -- what did you
9 want from all these law firms?

10 MR. SASSOWER: Are you finished, your Honor?

11 THE REFEREE: I want to know.

12 MR. SASSOWER: This is not the action that
13 was filed originally.

14 THE REFEREE: Forget what you have in your
15 hands.

16 MR. SASSOWER: I'm telling you but you don't
17 want to listen.

18 If you'll listen, you'll learn, otherwise,
19 you will not.

20 The summons read, "George Sassower against
21 D'Amato and Lynch, Ira Postel, and John Doe."

22 And, I served the summons or had the summons
23 served on D'Amato and Lynch and Ira Postel and
24 made a notice of motion in Supreme Court, Westchest-
25 er County, to learn the identity of John Doe.

1
2 The other side adjourned it once or twice.
3 D'Amato and Lynch brought on a contempt motion
4 which, after they realized was specious, they with-
5 drew it.

6 Your Honor, Ira Postel never brought on a
7 contempt motion.

8 THE REFEREE: Mr. Sassower --

9 MR. STRAUS: Judge, nothing has to do with
10 Twenty-seven.

11 THE REFEREE: What did you do?

12 MR. SASSOWER: A complaint is probably going
13 out this week.

14 THE REFEREE: This week?

15 MR. SASSOWER: Yes.

16 THE REFEREE: What happened on December 30,
17 '85?

18 MR. SASSOWER: There are motions pending, your
19 Honor.

20 THE REFEREE: Let me see what you have in
21 front of you.

22 MR. SASSOWER: This is what was amended on
23 January 30; most of them haven't been served yet,
24 your Honor.

25 THE REFEREE: December 30, George Sassower,

Attorney for Plaintiff.

MR. SASSOWER: Judge --

THE REFEREE: You're the plaintiff and it says "Amended smmons with motion."

MR. SASSOWER: With notice, I think, it says.

THE REFEREE: With notice.

MR. SASSOWER: In the meantime, there were motions pending for contempt which was withdrawn.

THE REFEREE: No. The nature of this action is interference with attorney-client relationship.

The relief sought is money damages and you are suing for ten million dollars.

MR. SASSOWER: Right. That's --

THE REFEREE: Who designated Westchester?

MR. SASSOWER: "Lorie" (phonetic) against New Amsterdam, 270 New York.

It's a perfect cause of action. Nobody says it violates anything as far as I know.

THE REFEREE: New action.

MR. SASSOWER: Based upon --

THE REFEREE: New action, not vexatious, not repetetive, is that right?

MR. SASSOWER: Absolutely right.

THE REFEREE: Not frivolous.

1
2 MR. SASSOWER: No.

3 THE REFEREE: And not violative of any
4 court order.

5 MR. SASSOWER: I'm making a motion for
6 summary judgment.

7 THE REFEREE: And not violative of any court
8 order.

9 MR. SASSOWER: In my opinion, all I know is
10 D'Amato and Lynch made a motion to hold me in
11 contempt and witherew it, voluntarily, as being
12 violative of a court order and withdrew it volun-
13 tarily. I'm sorry.

14 Ira Postel -- you asked me why.

15 Now, I remember, I made a motion to hold Ira
16 Postel in default.

17 Before I sent him the motion, I sent him a
18 letter telling him to please send me a notice of
19 appearance.

20 When he didn't send me a notice of appearance,
21 I sent him another letter.

22 I made a motion for a default and severance.

23 He put in opposing papers to excuse his
24 default and to give him ten days after service
25 after an order is entered, to put in a notice of

appearance.

It went before Judge Nastasie. (phonetic)

MR. STRAUS: Judge, I object. What does this have to do with Twenty-seven?

MR. SASSOWER: Your Honor wants to know why a complaint hasn't been issued, because there is a motion.

THE REFEREE: I never asked you why a complaint wasn't issued.

I'm asking you if you issued one.

Next.

MR. SASSOWER: Judge Nastasie got a --

THE REFEREE: We're up to Twenty-eight. It's Westchester County, Supreme Court, January 15, '85.

You are suing, Hyman Raffe now, too.

MR. SASSOWER: No, I'm not.

THE REFEREE: Against Feltman and Hyman Raffe.

MR. SASSOWER: Look at the bottom.

THE REFEREE: What bottom?

MR. SASSOWER: Look at the bottom.

MR. STRAUS: You are holding the document.

THE REFEREE: The object of this action is to declare agreement of November 4, '85, to be

1 null and void. You want a declaratory judgment.

2 But, the question I asked you, were you suing
3 Hyman Raffe?

4 MR. SASSOWER: That's not what we call a suit.

5 THE REFEREE: It says, "Against, Hyman
6 Raffe" is among the defendants.

7 What was the nature of this action? You want
8 to declare an agreement --

9 MR. SASSOWER: Null and void.

10 THE REFEREE: What agreement?

11 MR. SASSOWER: The November 4, 1985 agreement.

12 THE REFEREE: Between who?

13 MR. SASSOWER: Between Feltman and Hyman
14 Raffe.

15 THE REFEREE: And --

16 MR. SASSOWER: Is that marked in evidence?
17 Mr. Straus?

18 The November 4 agreement.

19 THE REFEREE: Between who?

20 MR. SASSOWER: Feltman, Karesh and Major

21 THE REFEREE: And Hyman Raffe.

22 MR. SASSOWER: Yes.

23 THE REFEREE: You want that --

24 MR. STRAUS: I think that was offered at
25

1
2 least four times, and --

3 THE REFEREE: You wanted that agreement to
4 be nullified and as one of the defendants --

5 MR. SASSOWER: I would bring him in as a
6 plaintiff.

7 THE REFEREE: You brought him in as a defen-
8 dant.

9 This was your own action.

10 MR. SASSOWER: Right.

11 THE REFEREE: How many times other than this
12 Westchester action -- excuse me --

13 You already had an action pending Westchester
14 County for ten million dollars.

15 MR. SASSOWER: This is for nothing.

16 THE REFEREE: But you had the same law firm --

17 MR. SASSOWER: Judge, it has nothing to do
18 with the other action.

19 THE REFEREE: The same law firm.

20 MR. SASSOWER: Am I suing Hyman Raffé
21 for money damages in the other one?

22 THE REFEREE: You sued Feltman for money
23 damages.

24 MR. SASSOWER: Not in this one. This is to
25 declare it null and void.

1
2 So far they have defaulted. They have
3 recognized that it's no good.

4 They have all defaulted.

5 It's not vexatious. It's not duplicative.
6 It's not violative of any court order.

7 THE REFEREE: Twenty-nine.

8 MR. SASSOWER: Twenty-nine is Westchester.

9 THE REFEREE: Yes. This is a day later.

10 MR. SASSOWER: Yes.

11 THE REFEREE: One day you brought --

12 MR. SASSOWER: Different all together.

13 THE REFEREE: Sir, I'm not saying that it's
14 not, but you don't let me finish any sentence.

15 MR. SASSOWER: Yes, I do.

16 THE REFEREE: You do?

17 MR. SASSOWER: Sure, I do. One --

18 THE REFEREE: What was the nature of this
19 action?

20 You brought this individually on behalf of
21 others simply situated.

22 MR. SASSOWER: Judge, do me a favor, look
23 at the original.

24 MR. STRAUS: Here's the summons, your Honor.
25

It's in evidence.

THE REFEREE: Same thing.

MR. SASSOWER: Same thing. What does it say on the bottom, your Honor?

THE REFEREE: The defendants --

MR. SASSOWER: The defendants are not the same.

THE REFEREE: Kreindler and Relkin, P.C., Karesh and Major.

MR. SASSOWER: who is the one before?

THE REFEREE: And Hyman Raffé. This time, Hyman Raffé is not in.

MR. SASSOWER: Look at what the cause of action is for.

THE REFEREE: Sir, you are bringing this action on behalf of yourself, individually and on behalf of others similarly situated, and I don't know who you had in mind.

In any event, the defendants were Kreindler, and Relkin and Feltman, Karesh and Major, and the relief sought is to vacate the order entered July 1, 1985.

MR. SASSOWER: Right.

THE REFEREE: Whose order?

Sassower

1964.

MR. SASSOWER: Judge Klein and Judge Saxe.

THE REFEREE: You brought an action in the Supreme Court of Westchester County to vacate an order of Supreme Court Justices in New York County?

MR. SASSOWER: Yes.

THE REFEREE: Go ahead.

MR. SASSOWER: Not frivolous, not vexatious, good case, good evidence, unbeatable evidence.

There is only one problem about this case.

THE REFEREE: That one problem is that Westchester County has no right to vacate an order of New York County Supreme Court.

They are courts of equal jurisdiction, you know that.

MR. SASSOWER: Judge, wait a second.

THE REFEREE: You should have known it. In any event, as far as you're concerned, it's a new action, not repetetive, and not vexatious, et cetera and not violative of any court order.

MR. SASSOWER: Not in my opinion. Let me say one thing. You are right. This is an unbeatable action.

The only problem that I have is venue. If I am not wrong, venue, the court can transfer

1
2 it to New York County, because venue is generally,
3 except only in one case, a jurisdictional defect.

4 Now --

5 THE REFEREE: But, let's assume you're right,
6 then the Defendant Sassower says, "See, I told you
7 it was vexatious, repetetive and all," he goes
8 to Westchester County when he could have come to
9 New York County.

10 MR. SASSOWER: I can't go to New York County.

11 THE REFEREE: Why can't you go to New York
12 County, because you were barred by the court?

13 MR. SASSOWER: No.

14 THE REFEREE: Why can't you?

15 MR. SASSOWER: I'll give you a brief to-
16 morrow and I'll show you why.

17 Do you want to hear --

18 THE REFEREE: We're all through with the
19 twenty-nine cases.

20 That's Twenty-five. Four of them --

21 MR. SASSOWER: I'll summarize. If anybody
22 thinks that --

23 THE REFEREE: I'll give you a little five
24 minute summary.

25 MR. SASSOWER: I want to say this, that I

1
2 don't think your Honor afforded me enough time
3 to explain in detail why they are not repetetive
4 and vexatious, but I think that can be non-
5 prejudicial if his Honor or Mr. Straus would ask
6 me questions with respect to those cases, which
7 they think is vexatious, because you have a lot
8 of cases here. I don't know which they are talk-
9 ing about.

10 As far as I'm concerned, I'm ready to prove
11 that none of them are frivolous, none of them are
12 repetetive, and it's buckshot, it's a buckshot
13 thing, and you don't know which one they are talk-
14 ing about, so, if your Honor feels after thinking
15 about it, that one case may be representative of
16 another case, please ask.

17 I offer that invitation to Mr. Straus.

18 The only thing I say about bifurcating,
19 where you cannot go into a particular court such
20 as the Court of Claims where you have to break
21 it up between Court of Claims and State Supreme
22 Court, that you have problems with, but other than
23 that, nothing is bifurcated, nothing is vexatious.
24 Tremendous merit, Judge. Believe me. And, I am --
25 when I finish up, twenty minutes before you are

1
2 finished with me on direct, I want twenty minutes
3 to show evidence that all of this has merit,
4 and I can do it in fifteen minutes.

5 MR. STRAUS: If your Honor pleases, I don't
6 know on what basis Mr. Sassower can possibly
7 conclude that he has not been given adequate
8 opportunity to testify.

9 He's only been on the stand for three days, and
10 we are part of the way through one section of
11 Charge Four.

12 The only restriction that I can recall that
13 anybody has placed on him is not going into
14 irrelevant or repetitive testimony.

15 I don't know of any other restrictions
16 that's been placed on him.

17 THE REFEREE: Mr. Sassower, let's go to
18 Charge Five.

19 MR. SASSOWER: On Charge Five --

20 MR. STRAUS: On Charge Four, there are
21 motions, appeals.

22 MR. SASSOWER: I want to go through every
23 one of them.

24 MR. STRAUS: And certainly, 78 proceedings.

25 THE REFEREE: Yes, I beg your pardon.

1
2 MR. SASSOWER: Judge, can I have a minute
3 on one subject that I'd like to speak to you about?

4 Monday evening, I came back and I found a
5 stipulation returned from the Schneider firm which
6 I had sent them three weeks ago.

7 I have two days in which to file. I'm over-
8 due already. For Tuesday. I did the brief.

9 When the Schneider brief came in, so, all I
10 have to do is patch it up.

11 I tried to patch it up yesterday and bring it
12 up to date, but I have to be at the Appellate Di-
13 vision tomorrow, either morning or afternoon, and,
14 with an application also as part of that brief,
15 and I think the way that application will be brought
16 up, Mr. Straus' attendance will be required also,
17 so, I have no problems as to whether it be morning
18 or afternoon, but, we either have to start late
19 or break early.

20 MR. STRAUS: This is outrageous.
21 He's been doing this since this hearing. He has
22 medical reasons. He has other problems. He has to
23 go to court.

24 MR. SASSOWER: What social problems did you
25 have?

MR. STRAUS: He has disrupted these proceedings to go out to his car to bring in documents.

He's disrupted this proceeding.

He comes in late. He came in at twenty to eleven last time.

He came in at ten-thirty this morning.

MR. SASSOWER: You're lucky I came in today.

THE REFEREE: Mr. Straus is not lucky because you came today.

If you're out sick, you're out sick.

MR. SASSOWER: I was really sick this morning.

THE REFEREE: You made a remarkable recovery. That's all I can tell you.

What is your application now?

You want to start at eleven o'clock tomorrow?

MR. SASSOWER: This is what I think, I'll meet Mr. Straus there tomorrow morning at 9:30.

MR. STRAUS: I have no knowledge of anything going on at the Appellate Division.

MR. SASSOWER: I'm telling him now. They don't take applications until 10 o'clock.

MR. STRAUS: Why is he making applications on the day that is scheduled for disciplinary proceedings?

1
2 MR. SASSOWER: Because I had to file my
3 brief by April 2nd.

4 The stipulation was returned to me April 4,
5 two days over.

6 I went to the Appellate Division.

7 THE REFEREE: First Department?

8 MR. SASSOWER: First Department.

9 THE REFEREE: What do you want from Mr. Straus?

10 MR. SASSOWER: Because my application is
11 while I'm there, I'll include relief against
12 Mr. Straus.

13 MR. STRAUS: I don't think he should be per-
14 mitted time to go to the Appellate Division to
15 bring another action so we can further delay this
16 matter.

17 MR. SASSOWER: I'm not bringing any action.

18 You want to know what I'm bringing?

19 MR. STRAUS: I don't care, other than the
20 fact that it interferes with this proceeding.

21 MR. SASSOWER: I'm bringing on a motion
22 to file a brief late.

23 MR. STRAUS: What does that have to do with
24 me?

25 MR. SASSOWER: Wait a second. As part of the

1971.

same application --

THE REFEREE: Mr. Sassower, we are starting at 11 o'clock tomorrow morning, okay?

Let's go on from there.

Have all your documents there that you intend to use.

Let's go on.

We're talking about the Article 78 proceedings.

MR. SASSOWER: If somebody will tell me how this is violative of a court order, I'll be happy to tell them, I don't know where to start from.

What date is this anyway? Looking at the face of it --

THE REFEREE: What are you addressing yourself to?

MR. SASSOWER: Number One. What does it violate?

THE REFEREE: Violation of court order.

MR. SASSOWER: What does it violate? That's what I'd like to know.

MR. STRAUS: I take it that you are indicating it doesn't violate anything.

That will be sufficient.

MR. SASSOWER: If you tell me what it violates, I'll tell you, yes or no.

MR. STRAUS: The petition is there for your edification.

It's been there for months.

In your opinion, you haven't violated anything, why not say so?

You're not getting an explanation.

MR. SASSOWER: You're charging me with it.

THE REFEREE: Mr. Sassower, the charge reads for itself.

MR. SASSOWER: How --

THE REFEREE: Do you have it in front of you?

MR. SASSOWER: Give me a copy of the petition.

MR. STRAUS: Of this Article 78 proceeding? Here.

Will you hand that to Mr. Sassower?

THE REFEREE: In the matter of the application of, Hyman Raffe, Petitioner, against Honorable Donald Diamond.

MR. STRAUS: There are numerous captioned items.

MR. SASSOWER: This is Supreme Court, New York

County. I thought you said Appellate Division.

THE REFEREE: It's Hyman Raffe against Puccini.

MR. SASSOWER: How anybody in their right mind could ever say this violates anything, I don't know.

Would you look at it, your Honor?

Tell me how it could violate anything?

MR. STRAUS: If your Honor pleases, may we move on to the next one?

Mr. Sassower says it doesn't violate anything.

MR. SASSOWER: Tell me what it violates. What could it possibly violate?

It says, "Put down the rules in writing. He has rules that change all the time."

I said, "Put them down in writing."

If God could give his rules to Moses in stone, Diamond can put them down on paper.

THE REFEREE: What you found fault with is what Referee Diamond did.

MR. SASSOWER: No. What I found fault with is that Diamond had changed his rules all the time, so, I started a 78 proceeding and I said, "Look, you have rules, put them down on paper."

Sassower

1974.

That's all. So, I can see it.

THE REFEREE: Is that why you started
Number One?

MR. SASSOWER: Right. I couldn't get them
down on paper.

Every Monday and Thursday there were different
rules.

In fact, I said that, I think, if God went
to the trouble of putting them in stone, you can
put it on paper.

Does that violate anything?

THE REFEREE: I'll make up my mind at the proper
time.

MR. SASSOWER: Wait a second. Nobody alleged
that that violated anything.

MR. STRAUS: It's alleged now.

MR. SASSOWER: Who alleges it?

MR. STRAUS: The --

MR. SASSOWER: Bring those papers in.

MR. STRAUS: The papers that we have are
sufficient.

MR. SASSOWER: No Judge said it violated anything.

THE REFEREE: Number Two.

MR. SASSOWER: Can I see the papers on that?

1
2 How this can violate anything, I don't
3 know, and nobody ever said this violated anything.

4 THE REFEREE: The Grievance Committee is
5 charging you.

6 MR. SASSOWER: Does it violate Greenfield's
7 order? Hilda Schwartz' order? Judge Sinclair's
8 order?

9 What does it violate?

10 THE REFEREE: you say you didn't violate
11 any court order?

12 MR. SASSOWER: Nobody said it violates any-
13 thing.

14 MR. STRAUS: You also say that none of this
15 litigation is frivolous or vexatious.

16 MR. SASSOWER: Absolutely not.

17 MR. STRAUS: Mr. Sassower, you are the one
18 who is testifying now.

19 MR. SASSOWER: Absolutely not. In fact,
20 I'll tell you something --

21 MR. STRAUS: Please just respond.

22 THE REFEREE: Number Three.

23 MR. SASSOWER: Absolutely not.

24 THE REFEREE: Number Three.

25 MR. STRAUS: If I understand, if I may, your

Honor, I don't mean to interrupt, but if I understand Mr. Sassower correctly, none of these Article 78 Proceedings violated any orders and all of them were well-intended and were, in fact, well based.

MR. SASSOWER: Absolutely.

MR. STRAUS: That probably covers all of the Articiel 78 proceedings, your Honor.

MR.SASSOWER: Absolutely. I want to see each one of them.

MR. STRAUS: Actually, there are seventeen of them.

MR. SASSOWER: I don't know, but, this one --

THE REFEREE: Which one?

MR.SASSOWER: Number Three. Very interesting.

Judge, I think it's wholly unfair to throw these things.

He took every motion, no matter how good it was, violative of --

THE REFEREE: Sir, you answered prepared and ready.

This has been going on since January 30.

MR. SASSOWER: He makes phony charges, phony charges. Tell me how anybody in their right mind

1
2 can say this violates anything, or, that it's
3 frivolous? How? How?

4 THE REFEREE: Go ahead into the --

5 MR. STRAUS: The record should indicate
6 that when Mr. Sassower says the next one, he has
7 handed a copy of the exhibit which pertains to
8 Number Three of the Schedule pertaining to an
9 Article 78 proceeding and now he has four --

10 MR. SASSOWER: How can anybody --

11 MR. STRAUS: If Mr. Sassower has the same
12 response to each of those, wouldn't that be suf-
13 ficient to cover all of them?

14 MR. SASSOWER: How can anybody, except a man
15 with a diseased mind, say this?

16 THE REFEREE: Mr. Sassower, for a sick man,
17 at twenty-five after four, you have a new spirit.

18 MR. SASSOWER: You have to have a diseased mind.
19 Look at them. Look at them.

20 THE REFEREE: Mr. Sassower --

21 MR. STRAUS: Your Honor --

22 MR. SASSOWER: He makes charges. Why don't
23 you prove them, and look at them?

24 THE REFEREE: Mr. Sassower, I'm going to
25 recess now until eleven o'clock tomorrow, so you

Sassower

1978.

will have an opportunity to cool down.

MR. SASSOWER: In case I get stuck at the
Appellate Division --

THE REFEREE: You're not going to get stuck
at the Appellate Division.

Be here at eleven o'clock.

You tell Justice Murphy you're before me.

Tell the law man that you're before Justice
Potoker and you must return.

oOo

RESPONDENT

F P.1879.

(Minutes of
Gammerman, J.)