

Pair Are Again Assessed Costs For Refusal to End Litigation

The forum was different — federal, rather than state court — but the results were the same: dismissal of all suits, costs and counsel fees against plaintiff and his lawyer and a permanent injunction against all further suits except for an appeal of the decision.

The holdings of Judge William C. Conner, of the U.S. District Court for the Southern District of New York, followed the pattern of numerous suits by Hyman Raffe, a former one-quarter shareholder in Puccini Clothes, Ltd., which has been dissolved and placed in receivership, and his attorney, George Sassower.

Civil Rights Claims

In his latest suit, under a civil rights law, Mr. Raffe claimed that various participants in the corporate dissolution and receivership proceedings have violated and continue to violate his civil rights through a conspiracy to take possession of Puccini and begin to dissipate its assets.

The conspiracy, he alleged, was successful only with the cooperation or inaction of various state judges, Attorney General Robert Abrams and his staff. The defendants included the receiver, estate executors and law firms who were involved in the Puccini proceedings.

Judge Conner handed down a twenty-five-page opinion in *Raffe v. Doe*, 84-6272, Oct. 11, in which he dismissed the suit, granted the defendants coun-

sel fees and costs against both Mr. Raffe and Mr. George Sassower, of Brooklyn, and enjoined them from further suits about Puccini affairs, except to appeal his decision.

Res Judicata

Judge Conner noted the suit was filed "less than one month" after Judge Eugene H. Nickerson, of the U.S. District Court for the Eastern District of New York, dismissed last year *Raffe v. Citibank*, 84-305 (NYLJ, Aug. 9, 1984), in which "nearly all the defendants" in the Southern District case were cited.

Judge Nickerson held the action against the state judges and Mr. Abrams was barred by the Eleventh Amendment and judicial immunity and the claims against the private-party defendants by res judicata and collateral estoppel. Mr. Raffe, he found, in view of his "duplicative motions and appeals" in state courts, already had enjoyed a "full and fair opportunity to litigate his position." Counsel fees and costs totaling \$52,393.92 were assessed against both Mr. Raffe and Mr. Sassower.

After suing in the Southern District, new actions were filed in state courts and three more actions were filed in the Southern District. These were consolidated before Judge Conner, who also dismissed them in his decision.

The Supreme Court of the United

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Costs Assessed

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States, the judge stated, had "removed any doubt" that the doctrines of res judicata and collateral estoppel apply to certain civil rights suits. Mr. Raffe's complaint, the judge held, "does no more than rehash the allegations put before Judge Nickerson."

The suit, the judge ruled, was "entirely without merit and... it has no basis in law or fact. Moreover, in view of Judge Nickerson's recent decision, to say nothing of the five-year history of duplicative state-court proceedings, it is inconceivable that Raffe and Sassower had any legitimate purpose in instituting this action."

"Their only apparent aim was to harass the defendants in some desperate hope that they will eventually tire of defending lawsuits and surrender Puccini and its assets. This is nothing more than blackmail by litigation and the Court will not tolerate it."

State Court Developments

Judge Conner pointed out that since the appointment of the receiver in February, 1981, "Raffe and Sassower have made more than 100 motions" in the state court in connection with the Puccini litigation, including nine separate attempts to remove the receiver and various attempts to disqualify law firms and state judges "who ruled adversely to plaintiff."

At least twice, the judge continued, state judges had imposed on Mr. Raffe "extraordinary costs and attorneys' fees," and this year both Mr. Raffe and Mr. Sassower were held in criminal contempt of court (NYLJ, July 2, 5, 1985). It was understood the attorney served time in jail.

In other actions in state-court proceedings, the estate of a Puccini partner won judgments on guarantees totaling \$376,885.60 and a jury this year awarded counsel fees and costs totaling \$462,953.94.

The defendants were represented in the lawsuit by Jeffrey I. Slonim and Howard L. Zwickel, Assistant Attorneys General; Donald F. Schneider, of Feltman, Karesh, Major & Farbman; Robert E. Meschel and Timothy P. Butler, of D'Amato & Lynch; and Donald B. Relkin, Michael J. Gerstein and Edward Weissman, of Kreindler & Relkin.