

THE REFEREE: This is the matter of George Sassower, an attorney and counselor at law, Grievance Committee for the Second and Eleventh Judicial Districts, Petitioner, George Sassower, Respondent.

Mr. Sassower is present.

Counsel, note your appearance, please.

MR. STRAUS: For the Petitioner, Robert Straus, Chief counsel to the Grievance Committee for the Second and Eleventh Judicial Districts.

MR. SASSOWER: George Sassower.

THE REFEREE: You are appearing pro se, sir.

MR. SASSOWER: Yes, sir.

THE REFEREE: Are you ready, Mr. Straus?

MR. STRAUS: Yes, your Honor, I'm ready to proceed.

I would first request that the pleadings be marked as Referee's Exhibits, the Petition, the Answer, and the addition to Schedule 1, which was received at the pre-hearing conference on January 30.

MR. SASSOWER: Only for identification, your Honor.

MR. STRAUS: Yes, just for that purpose.

THE REFEREE: All right, Referee's
Exhibit 1 for identification.

(Received and marked as indicated)

MR. STRAUS: In addition, Judge Potoker,
I have served and been served with an order
from the Appellate Division.

I have a copy which I think should also
be marked as a Referee's exhibit, pertaining to
a motion made by Mr. Sassower which, in fact,
makes or grants the motion only to the extent
of directing that this matter should proceed
in a formal public hearing and I have a copy of
that, and, may the record indicate that I am
handing that to you.

THE REFEREE: All right. It will be re-
ceived and marked Referee's Exhibit 2 for iden-
tification.

(Received and so marked)

THE REFEREE: You have a copy, Mr. Sassower.

MR. SASSOWER: I don't.

THE REFEREE: Do you want to look at it?

MR. SASSOWER: I can look at it during a
recess.

THE REFEREE: It's a short thing. Take it.

MR. STRAUS: Your Honor, do you want the Reporter to mark these Referee's Exhibits for identification?

THE REFEREE: That would be a good idea if we marked it.

The pleadings and answer will be deemed marked.

MR. SASSOWER: Does One include the answer also?

MR. STRAUS: That's correct.

MR. SASSOWER: Fine.

THE REFEREE: The answer and amended pleadings.

MR. SASSOWER: Fine.

THE REFEREE: They will be marked Referee's Exhibit 2 for identification.

(Received and marked as indicated)

MR. STRAUS: At this time, your Honor, I have a witness available who is present in the courtroom.

I'd like to call him as our first witness.

THE REFEREE: All right.

MR. STRAUS: Donald Schneider.

MR. SASSOWER: Your Honor --

D O N A L D S C H N E I D E R, 411 East 57th Street, New York, N.Y., having been called as a witness, being duly sworn, took the witness stand and testified as follows:

MR. SASSOWER: Your Honor, may I make a statement at this time?

THE REFEREE: Yes.

MR. SASSOWER: A short statement.

At our conference on January --

THE REFEREE: Does it have anything to do with the witness?

MR. SASSOWER: Yes.

On the conference of Janyary 30, 1986, Mr. Straus said the only witness he proposes to present was Mr. Raffe and Mr. Postel.

I spoke to Mr. Straus, I think two days ago, and I asked him who he expects to bring today, so that I could be prepared.

Mr. Straus did not tell me --

I have no objection to Mr. Schneider testifying.

In fact, I welcome it, but I wish the Court to understand that I brought, essentially, only

cross-examining material for Mr. Raffé and Mr. Postel, so that I don't want to be precluded in my cross-examination of Mr. Schneider because I certainly would want him back on Tuesday.

I did not bring any cross-examining material for Mr. Schneider.

THE REFEREE: You now know that you want him back on Tuesday?

MR. SASSOWER: Yes.

MR. STRAUS: If your Honor please, Mr. Schneider, the complainant in this matter, and his testimony is required as a direct result of Mr. Sassower's reservations as to the documentary evidence that we were intending to offer.

Mr. Schneider is in a position to identify various documents and to facilitate their being received in evidence.

Mr. Sassower is well aware of the fact that Mr. Schneider is the complainant, having been provided with a copy of his initial complaint.

MR. SASSOWER: I'm saying that I did not come fully prepared for Mr. Schneider today.

That's all. Period.

THE REFEREE: At the conclusion of his

testimony, if you feel that you still want him back on Tuesday, make your wishes known to the Court at that time.

MR. SASSOWER: Thank you, your Honor.

I'll make a note now, your Honor.

THE REFEREE: How do you know now?

MR. SASSOWER: I know what documents I left behind, your Honor.

MR. STRAUS: May I proceed?

THE COURT: Yes.

DIRECT EXAMINATION

BY MR. STRAUS:

Q Mr. Schneider, what is your business or occupation?

A I'm an attorney.

Q Are you an active practitioner?

A Yes, I am.

Q Where did you attend law school?

A I attended Boston University Law school.

Q When did you graduate?

A 1976.

Q You have been practicing law for how long?

A For approximately 10 years.

Q Are you an individual practitioner or are you

associated with a firm?

A I'm a partner in a law firm known as Feltman, Karesh, K-A-R-E-S-H, Major and F-A-R-B-M-A-N, which is located in mid-town Manhattan.

MR. SASSOWER: Excuse me.

Are the people who are present here, who I do not know?

Are they potential witnesses?

MR. STRAUS: No.

MR. SASSOWER: Okay.

Your Honor, I want to say that although this is a public hearing, I would like exclusion of witnesses who have not testified.

THE REFEREE: Witnesses on both sides will remain outside the courtroom.

MR. SASSOWER: Thank you, your Honor.

Q How's about with Karesh, Major --

A I have been with that firm for approximately four years.

Q What is the nature of the practice?

A We are a twelve-attorney general practice firm. Approximately half of our practice involves commercial litigation, and I'm a litigation partner at that firm.

Q In the course of your practice of law, did you

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2 have occasion to become involved in litigation pertaining
3 to Puccini Clothing, Ltd., and its shareholders?

4 A Yes, I did.

5 Q Would you briefly describe, if you would, what
6 Puccini Clothing is, or was?

7 A My understanding is that Puccini Clothes was
8 a manufacturer and distributor of garments.

9 Puccini was made up of four equal shareholders,
10 Hyman Raffee, Milton Kaufman, Eugene Dann and Robert
11 Sorrentino.

12 Mr. Kaufman passed away sometime in 1979 and
13 shortly thereafter, his estate brought a proceeding in
14 the New York State Supreme Court to dissolve the corporat-
15 ion.

16 That proceeding resulted in an order by Judge Sinclair
17 on January 4, 1980.

18 MR. SASSOWER: I think this is going beyond
19 the scope of the question.

20 MR. STRAUS: It's background.

21 MR. SASSOWER: It becomes very important.

22 THE REFEREE: All right. Break it up.

23 MR. STRAUS: Let's stop at this point.

24 Q At the time of Mr. Kaufman's death, was Puccini
25 represented by an attorney, to your knowledge?

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A Yes, it was.

Q Who was that attorney?

A Mr. Sassower.

Q You indicated there were four shareholders;
were they equal shareholders, to your knowledge?

A Yes, they were.

MR. SASSOWER: Excuse me. May I just --

THE REFEREE: Yes.

MR. SASSOWER: I object to the caution as
to what he understands.

I'd like him to give testimony as to
what he knows, because I can tell your Honor right
now, and I think Mr. Schneider will agree with
me, that I never represented Kaufman.

MR. STRAUS: Objection.

THE REFEREE: You will have an opportunity
to cross-examine the witness.

MR. SASSOWER: Please ask him what he knows
of his own knowledge or documents, --

THE REFEREE: Go ahead, Mr. Straus.

MR. SASSOWER -- please.

Q Did there come a time with respect to the
dissolution of Puccini that litigation occurred?

A It this after an order was entered dissolving

Puccini?

Q Let me withdraw the question.

When did your firm become involved with Puccini?

A We became involved in February of 1982.

What happened after is --

MR. SASSOWER: Objection. You answered the question.

THE REFEREE: How did you become involved in 1982?

You were retained by whom?

THE WITNESS: We were retained by Lee Feltman who had been appointed as a receiver for Puccini on February 1, 1982.

Q Mr. Feltman, is he associated with your firm?

A Yes. He's a member of the firm.

THE REFEREE: He was designated the receiver.

THE WITNESS: That is correct.

As a substitute receiver, when the first receiver -- former Mayor Lindsey declined to qualify.

Q At the time that you began or the litigation began relating to Puccini Clothing and its shareholders, was Puccini represented by Counsel?

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A Could you repeat that question? I'm sorry.

Q Let me go back.

Did there come a time when litigation was instituted pertaining to the dissolution of Puccini?

MR. SASSOWER: Excuse me.

A Yes.

MR. SASSOWER: I would appreciate the caution would be confined to February '82 and afterwards, as to what he knows.

THE REFEREE: I know, but there is some background material that we need go into to make a witness' testimony more meaningful.

Go ahead, Counselor.

Q The answer was "yes."

A Yes.

There have been a large number of litigations that were instituted relating to Puccini after February 1982.

MR. SASSOWER: After February? All right.

Q Would you indicate, please, the first matter that you recall in this litigation?

A Shortly after we were retained as counsel for the receiver, Mr. Sassower brought and continued bringing a large number of motions in the dissolution proceeding as well as in another proceeding relating to Puccini that

was pending at that time.

MR. SASSOWER: I object. Non-responsive.

MR. STRAUS: I think it's entirely responsive.

THE REFEREE: Overruled.

Don't characterize any of the actions.

Just tell us what action was brought.

MR. SASSOWER: May I ask, your Honor, the question was about actions brought.

THE REFEREE: I hear the questions.
I heard the answer.

Objection overruled.

Go ahead, sir.

DIRECT EXAMINATION

BY MR. STRAUS:

Q Prior to your firm being retained, were you aware of any order pertaining to Mr. Sassower's representation of Puccini or the shareholders?

A After my firm was retained, in reviewing the court files, we did learn that sometime in 1980, Mr. Sassower was discharged as attorney for Puccini and for shareholders, Eugene Dann and Robert Sorrentino, by Judge Schwartz.

Q That Judge Hilda Schwartz of the New York County

Supreme Court?

A That's correct.

Q I show you a copy of a document, consisting of three pages, and ask you if this is what you are referring to?

A Yes, it is.

MR. STRAUS: I offer this in evidence as Petitioner's Exhibit 1.

MR. SASSOWER: Your Honor, may I request at this point that where the testimony is supported by documents, I would appreciate not a characterization of the documents, but the document itself.

THE REFEREE: Does Mr. Sassower have copies of all these documents?

MR. STRAUS: Yes, he does. That was attached to the pleadings.

THE REFEREE: I suggest, Mr. Sassower, that when Mr. Straus offers a document, you look in your files to see if you have a copy.

MR. SASSOWER: Your Honor, I have no objection to this exhibit except for the heading on the top of the first page which characterizes what it is.

MR. STRAUS: May I see that, your Honor?

I'm not sure what he's referring to.

Let me, in response to Mr. Sassower's remarks -- I think that's entirely appropriate.

This, apparently, refers to an appendix that was included.

There are page numbers on the top.

It's not offered with respect to those.

There are the numbers RA209, RA210 and RA208, and it states, "Order of Schwartz, J. including litigation cover, parenthesis, RA-208-RA213."

It is not offered with respect to those.

The officer is simply limited to the document without those typed statements.

MR. SASSOWER: No objection.

THE REFEREE: Received as Exhibit 1.

(Received and marked Petitioner's 1)

THE REFEREE: What date do you have on that?

MR. SASSOWER: I have as entered in the County Clerks Office September 11, 1980.

MR. STRAUS: Your Honor, for the record, may I state that a copy of this exhibit was

annexed to the original petition as exhibited,
and it's enumerated in Charge 5 Paragraph 1.

MR. SASSOWER: Okay. No problem.

THE REFEREE: All right. I have a copy
of it right here.

The date is September 11, 1980.

MR. SASSOWER: Right.

THE REFEREE: The entry date.

Q Mr. Schneider, are you aware of any other orders
that were entered either disqualifying, retaining or barring
Mr. Sassower from appearing in Puccini litigation or
litigation relating to the shareholders of Puccini?

A Yes, I am.

MR. SASSOWER: Objection.

THE REFEREE: Overruled.

MR. SASSOWER: The characterization of the
document, your Honor.

MR. STRAUS: The documents will be offered
in short order, Mr. Sassower, I assure you.

THE REFEREE: Go ahead.

Q Mr. Schneider, I show you a four-page document
and ask you if you recognize it.

A Yes, I do.

Q And, is this a copy of one of the orders that you were referring to?

A Yes, it is.

MR. STRAUS: At this time, I offer in evidence a four-page document, which purports to be a photocopy of an order signed by Judge Thomas V. Sinclair, signed the first day of February, 1982, consisting of four pages.

This is a photocopy.

I think you have a copy of that annexed to your pleadings.

THE REFEREE: Is that one of the exhibits?

MR. STRAUS: Yes, it is, your Honor. These are all under Charge 5.

This would be the next paragraph.

THE REFEREE: "D"?

MR. STRAUS: Yes.

MR. SASSOWER: No objection, your Honor.

THE REFEREE: That will be received as Petitioner's Exhibit 2.

(Received and marked as indicated)

THE REFEREE: Dated the 1st day of February, 1981, right, an order of Judge Sinclair.

THE WITNESS: 1982.

MR. STRAUS: I think it's 82.

They may have been at that point when the people were using the prior years.

THE REFEREE: It was filed February 4, '82.

MR. SASSOWER: I'll concede --

THE REFEREE: That it's February 1, '82?

MR. SASSOWER: Right.

(Received and so marked)

DIRECT EXAMINATION

BY MR. STRAUS:

Q Mr. Schneider, did Judge Sinclair sign another order that same day?

A Yes, he did.

Q I show you a document and ask you if you recognize it.

A Yes, I do.

Q This is a copy -- is this a copy of the order that was signed that same day by Judge Sinclair?

A Yes; I believe so.

MR. STRAUS: I offer it in evidence as Petitioner's Exhibit 4. That should be 3.

MR. SASSOWER: It says '81, but I concede that it's '82.

MR. STRAUS: That would be Exhibit 3 in

in evidence.

THE REFEREE: Petitioner's Exhibit 3 in evidence.

It's Exhibit F in the pleadings.

(Received and so marked)

Q Directing your attention to Exhibit 2, if I may, "It is ordered" --

MR. SASSOWER: The exhibit speaks for itself.

MR. STRAUS: I'd like to ask the witness a question, if I may.

Q Directing your attention to that portion of the order which states that motion for an order disqualifying George Sassower as attorney for Hyman Raffe is granted.

Also, directing your attention to the order that George Sassower, or any attorney affiliated or in any way associated with him, is disqualified from representing Hyman Raffe.

With respect to those provisions, did Mr. Sassower subsequently institute proceedings on behalf of Mr. Raffe?

A Yes, he did take legal action on behalf of Mr. Raffe in that action, which is covered by that one order.

MR. SASSOWER: The answer is, "Yes."

I don't know what the gentleman is talking about.

So, I would --

THE REFEREE: His answer is "Yes."

MR. SASSOWER: That's it.

Q With respect to Exhibit 3, with that portion of the order disqualifying Mr. Sassower, I direct your attention to the exhibit.

Did Mr. Sassower thereafter, bring an action or actions on behalf of Mr. Raffe?

MR. SASSOWER: The answer is, "Yes."

A Yes, he did.

Q "Yes, he did." Thank you.

Mr. Schneider, are you aware or were you aware of an order signed by Judge Edward Greenfield, pertaining to the representation provided by Mr. Sassower?

A Yes.

Q I show you a two-page document, and ask you if you recognize this?

A Yes, I do.

Q Is this a copy of an order signed by Judge Greenfield?

A Yes, it is.

MR. STRAUS: I offer this in evidence as Petitioner's Exhibit 4.

THE REFEREE: That is also Exhibit G in

pleadings.

That's dated -- entered January 25, '83.

(Received and marked Petitioner's Exhibit 4 in evidence)

Q Mr. Schneider, directing your attention to the last paragraph of the order where it states that neither George Sassower nor any other attorney may represent or purport to represent Puccini Clothes Limited in any other action, proceeding or otherwise, unless expressly authorized and it goes on, did Mr. Sassower, in fact, following the date of this order represent or purport to represent Puccini in other legal actions or proceedings?

A On numerous occasions.

Q Did there come a time when proceedings relating to Puccini were referred to a Referee?

A Yes.

Q Was that done by judicial order?

A It was done by administrative order of Chief Administrative Judge Riccobono.

Q I show you a two-page document, and ask you if you recognize this.

A Yes, I do.

Q Is this a copy of the order?

A Yes, it is.

MR. STRAUS: I offer this in evidence as

Petitioner's Exhibit 5.

This is a two-page document, a photocopy of an order of Judge Xavier C. Riccobono, Administrative Judge, dated March 26, '84.

I think that's also annexed to the pleadings.

THE REFEREE: Yes. It's Exhibit H of the pleadings.

MR. STRAUS: Do you want to see it?

MR. SASSOWER: No.

(Received and marked Petitioner's Exhibit 5 in evidence)

DIRECT EXAMINATION

BY MR. STRAUS:

Q What Referee was this matter referred to?

A Referee Donald Diamond.

MR. SASSOWER: The document speaks for itself.

Q Did there come a time when Referee Diamond issued orders pertaining to the handling of the Puccini litigation?

A Yes, he did.

Q I show you a document, and ask you if you recognize this?

A Yes, I do.

MR. SASSOWER: Objection, your Honor.

THE REFEREE: Overruled.

MR. SASSOWER: Will you hear my objection, your Honor?

THE REFEREE: All he was asked, "Do you recognize it?"

MR. SASSOWER: No, no, he said something else.

MR. STRAUS: That's all I heard him say.

THE REFEREE: That's all he said, sir.
The Court Reporter will read back --

MR. SASSOWER: Would you hear me for one moment?

THE REFEREE: You made a statement that he said something else.

I want the Court Reporter to read back what the witness said.

(Whereupon the Official Court Reporter repeated as directed)

MR. SASSOWER: I heard the witness.

THE REFEREE: Are you satisfied, sir?

MR. SASSOWER: Now, may I say a word or two?

THE REFEREE: Yes.

MR. SASSOWER: A Referee does not issue orders.

He issues reports.

THE REFEREE: That's something else.

MR. SASSOWER: I object to the question.

THE REFEREE: Overruled. Go ahead, sir.

DIRECT EXAMINATION

BY MR. STRAUS:

Q Mr. Schneider, is this, in fact, a copy of Judge Diamond's rulings pertaining to the Puccini litigation?

A Yes, it is.

MR. STRAUS: I offer this in evidence.

MR. SASSOWER: As what?

MR. STRAUS: As Petitioners Exhibit 6.

MR. SASSOWER: As rulings?

MR. STRAUS: As you say, it speaks for itself.

It is a document which consists of seven pages.

It indicates that it was filed on September 26, 1984 in the County Clerk's office.

It is dated September 26, 1984, and, it is a photocopy of a document signed by Donald Diamond, Special Referee, and it's offered as that document.

MR. SASSOWER: As a document, okay.

May I see it, please?

(shown to Counsel)

MR. SASSOWER: I think it would benefit everyone, particularly with respect to Referee Diamond, if we referred to anything that he signed as a document and let the Judge, his Honor, determine whether it's an order, not an order, rulings or anything else.

THE REFEREE: It's an exhibit in evidence for the purpose of this hearing.

MR. SASSOWER: Right, but don't characterize it, Mr. Strauss, I would appreciate it.

MR. STRAUS: Judge, may the exhibit be marked in evidence?

THE REFEREE: By all means.

(Received and marked Petitioner's Exhibit 6 in evidence)

Q Directing your attention first to Page 2 of this document, Referee Diamond states with respect to "immediately after my appointment" --

Let me start here and see if I can shorten this --
-- "whereby all motions for leave to re-argue, renew or for relief that requires that the motion be made on notice to a justice of this court, under the provisions of CPLR

2221 could be brought only by order to show cause signed by the Judge who must pass upon the application."

With respect to the direction that matters be brought on by order to show cause, by those judges who signed the original application, were motions made pursuant to CPLR 2221 which were not brought on by order to show cause?

MR. SASSOWER: Objection.

THE REFEREE: If he knows, let him answer it.

A Repeatedly by Mr. Sassower.

MR. SASSOWER: Are we talking about -- is he talking about before September 26 or after September 26?

THE REFEREE: We are talking about after the effective date of the order.

MR. SASSOWER: It's not an order; it's a document.

MR. STRAUS: It's an order of the Referee.

MR. SASSOWER: It's a document.

MR. STRAUS: I can refer to it as an order.

You can refer to it as what you wish.

MR. SASSOWER: I object.

MR. STRAUS: Your objection has been noted.

THE REFEREE: Go ahead, Mr. Straus.

Q After the order of Judge Diamond pertaining to 2221 motions, your answer was?

A Yes.

Q Who brought those motions?

A They were brought by Mr. Sassower.

Q Again, directing your attention to Page 2, with respect to all other motions, the movants are required to arrange for a pre-motion conference for the purpose of establishing a procedure for the resolution of any possible disputed issues of fact that may be raised in connection with the motion.

Directing your attention to that portion, were other motions brought by Mr. Sassower on behalf of the litigants in Puccini? Just "yes" or "no."

A Yes.

Q Were -- before, were motions brought without a request for a pre-hearing, a pre-motion conference?

A Yes.

Q On how many occasions did that occur?

A Tens of times.

MR. SASSOWER: Your Honor please, when we

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2 have these broad statements without documentat-
3 ion --

4 THE REFEREE: You will have an oppor-
5 tunity to cross-examine the witness.

6 MR. SASSOWER: I understand that, your Honor,
7 and I only make it by way of suggestion, your
8 Honor, that your Honor should charg a more orderly
9 course here; because, otherwise, we're going
10 through a lot of --

11 THE REFEREE: Up to this point --

12 MR. SASSOWER: -- these are conclusions.

13 THE REFEREE: -- up to this point, Mr.
14 Straus has already submitted six exhibits.

15 Go ahead.

16 Q Mr. Schneider --

17 THE REFEREE: He said he brought numerous
18 actions.

19 How did that come to your attention, sir?

20 THE WITNESS: Excuse me?

21 THE REFEREE: How did it come to your attent-
22 ion that he was instituting other litigation?

23 THE WITNESS: Because my client, my firm,
24 myself personally, my law partners were all parties
25 to that.

THE REFEREE: At that time you were representing the corporation.

THE WITNESS: We were representing the receiver for the corporation.

THE REFEREE: You were a member of your firm.

THE WITNESS: That's correct.

DIRECT EXAMINATION

BY MR. STRAUS:

Q Is there any doubt that you had personal knowledge of these matters being brought?

A They were all served upon my firm.

Q Did there come a time when a temporary restraining order was served upon Mr. Sassower?

A On more than one occasion.

Q Well, let --

Directing your attention particularly, do you recall a temporary restraining order signed by Judge Thomas J. Hughes of the Supreme Court, New York County?

A Could you give me the date of that?

Q Seventh of December, 1984.

A Yes.

MR. SASSOWER: December 7.

MR. STRAUS: That's correct.

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2 THE WITNESS: Yes. Mr. Hughes did sign
3 a TRO.

4 Mr. Justice Hughes did sign a TRO.

5 Q I show you a five page document and ask you if
6 you recognize that as the order signed by Judge Hughes?

7 Is this a copy of the order signed by Judge Hughes?

8 A Yes, it is.

9 MR. STRAUS: I offer this in evidence as
10 Petitioner's Exhibit 7.

11 MR. SASSOWER: No objection.

12 THE REFEREE: All right.

13 It will be received in evidence for the purpose
14 of this hearing as Petitioner's Exhibit 7 which
15 corresponds to Exhibit J of the pleadings.

16 (Received and so marked)

17 THE REFEREE: It's a five-page document.

18 Q If you will look at Exhibit 7, following the
19 issuing of that TRO, did Mr. Sassower, acting on behalf
20 of Mr. Raffe or allegedly on behalf of Puccini bring
21 further actions?

22 A On behalf of Mr. Raffe and on his own behalf,
23 yes.

24 Q Were you personally -- did you have personal
25 knowledge of those matters?

A Yes, those actions were served upon my firm.

Q Can you briefly describe what they were?

A As I recall, there were three lawsuits brought after the TRO was entered and before a permanent injunction was entered.

I cannot recall the exact captions of those actions.

Those captions are recited in a permanent injunction.

MR. STRAUS: I think we'll get to that.

MR. SASSOWER: Just one second, I hate to interrupt.

Could you give me that answer again?
(Whereupon the Official Court Reporter repeated the answer)

MR. SASSOWER: The question and the answer.
(Repeated as requested)

Q Referring to a permanent injunction, who ordered that?

A Judge Gammerman.

THE REFEREE: Yes, Mr. Sassower.

MR. SASSOWER: I beg of you -- I beg of you as an Officer of this Court, I really don't want to hear three actions were brought.

Produce those actions.

MR. STRAUS: In due time, I assure you, Mr. Sassower, they will be produced in due course, but you will have to permit me to conduct my case the way I see fit.

MR. SASSOWER: I want you to. Okay.

THE REFEREE: Continue, please.

DIRECT EXAMINATION

BY MR. STRAUS:

Q Who did you say signed the permanent injunction?

A Judge Ira Gammernan.

Q I show you a document, and ask you if this is a copy of the order signed by Judge Gammernan.

A Yes, it is.

MR. STRAUS: I offer this in evidence as Petitioner's Exhibit 8.

This is a document dated January 23rd, 1985, signed by Judge Ira Gammernan, index number 01816, 1980.

There are three -- there are six -- nine, ten captioned matters.

THE REFEREE: That corresponds to Exhibit L of the pleadings.

MR. STRAUS: That's correct.

MR. SASSOWER: May it be identified also as being entered on January 24, although it is not on here, as to distinguish it from another order signed by Judge Gammernan on that same day?

MR. STRAUS: I have no knowledge of that.
All I see here is --

All I see is January 23rd.

MR. SASSOWER: There are two of them.

MR. STRAUS: May we have this marked in evidence?

THE REFEREE: Yes, Petitioner's Exhibit 8.

MR. STRAUS: Excuse me, your Honor, I think that was Exhibit -- that corresponds to Exhibit K in the pleadings.

THE REFEREE: "K," yes.

MR. STRAUS: I thought you said "L."

THE REFEREE: "K."

Received and so marked as indicated)

Q After Exhibit 8 was entered, permanently enjoining Mr. Sassower, did he bring further actions?

A Yes, he did, in violation of that order.

MR. SASSOWER: Objection.

THE REFEREE: The answer is "Yes" or "No."

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Q Yes, he did?

A Yes.

Q Did you have any personal knowledge of the actions he brought?

A Yes, I did.

Q In addition to the state court proceedings, were there any other proceedings brought in the federal courts pertaining to Puccini and its shareholders?

A Yes.

Q And, directing your attention to any matters that were brought in the Southern District of New York, did there come a time when a matter came before District Court Judge Conner, C-O-N-N-E-R?

A Yes.

Q Did Judge Conner issue an order?

A Yes, he did.

Q I show you a document, and, ask you if this is a copy of the opinion and order of Judge Conner?

A Yes, it is.

MR. STRAUS: I offer that in evidence as Petitioner's Exhibit 9.

THE REFEREE: Nine, corresponding to Exhibit L of the pleadings.

MR. SASSOWER: What is the date of that?

1
2 THE REFEREE: The date is October 11,
3 1985.

4 MR. STRAUS: I was just going to describe
5 it for the record.

6 It is signed by Judge William R. Conner,
7 United States District Court and dated October
8 11, 1985.

9 It is a 'twenty-five page document.

10 THE REFEREE: William R or William C?

11 MR. STRAUS: I hope it's the same in both.

12 MR. SASSOWER: I didn't hear that.

13 MR. STRAUS: It's William C.

14 (Received and marked Petitioner's Exhibit 9 in evidence)

15 THE REFEREE: That's a twenty-four page
16 document, plus another page marked small letter
17 "a." Footnote.

18 Q Mr. Schneider, at this point, I'm going to show
19 you two documents.

20 One is designated Schedule 1 and another which
21 is designated additions to Schedule 1.

22 Have you seen these before?

23 A Yes.

24 THE REFEREE: We'll mark them Petitioner's
25 Exhibit 10 and 11 for identification.

MR. STRAUS: May the record indicate that these are copies of the exhibits previously marked as Referee's Exhibits as part of the pleadings.

I'm giving them to the witness.

These are Schedule 1 and the additions to Schedule 1, so he has them to look at them and they have been identified for the record.

DIRECT EXAMINATION

BY MR. STRAUS:

Q Directing your attention, if I may, to Schedule 1, there is a sub-paragraph A.

MR. SASSOWER: That would be Exhibit 10.

MR. STRAUS: That's correct, Exhibit 10.

It's not in evidence; for identification.

Q I'm asking if you, if you, would disregard the caption next to the letter "a" but looking at the numbered items which are listed there, is that an accurate list of actions that were instituted by Mr. Sassower in the litigation pertaining to Puccini or its shareholders?

A Yes, it is.

Q Is that a complete list?

MR. SASSOWER: May I just look at it?

MR. STRAUS: That's attached to the pleadings.

MR. SASSOWER: What are you referring to as the caption?

MR. STRAUS: It says "Lawsuits commenced in violation of court orders."

I'm asking him to disregard that aspect and only deal with the enumerated cases.

MR. SASSOWER: Okay.

Q You indicated that that's an accurate list. Is that a complete list of all actions that were brought?

A I don't believe it is.

Q But, am I correct that there is nothing on that list which was not brought?

A That's correct.

Q I have a group of documents --

MR. STRAUS: (contg)-- if your Honor will permit me, and they have been numbered according to those numbers contained on the schedule.

Q I would ask you to look at these documents and tell me if these are, in fact, the documents, which instituted those matters which are enumerated?

Do you understand my question?

A Yes, I do.

Q Would you look at them now and tell me if these correspond to the cases enumerated?

MR. SASSOWER: Your Honor, if it is going to take three or four minutes, at least, may we have a three or four-minute recess?

THE REFEREE: All right.

MR. SASSOWER: How long do you think it will take, Mr. Schneider, to do that?

THE WITNESS: At least five minutes.

(Whereupon a short recess ensued as indicated)

(R E C E S S)

* * * * *

DIRECT EXAMINATION

BY MR. STRAUS:

Q Mr. Schneider, resuming your testimony at this point, have you had an opportunity during a brief recess to examine the documents which I've presented to you?

A Yes, I did.

Q And do they correspond to the items numbered in Exhibits 10 and 11 for identification?

A Yes, they do.

Q If I may, the meaning of that, if, for example, Number 4 which is listed as Raffo versus Citibank, is there a copy of an initiating --

MR. SASSOWER: What number are you looking at?

MR. STRAUS: Number 4.

Q You pulled out a document which is a summons,
is that correct, in a civil action.

A Yes.

It is the summons and complaint.

Q If I go and --

You have indicated that there is a --

MR. SASSOWER: Wait, wait, Counselor. Can I
see that, please?

MR. STRAUS: Sure.

Q That corresponding to each number listed under
Schedule 1 and the additions to Schedule 1, which run up
to Number 29, there is a document which corresponds to
that for each of those numbered cases.

A That's correct.

Q Are those, in fact, documents which you, of your
personal knowledge know, were filed in connection with those
cases?

A I know that I have at one time or another received
copies of those documents.

Q All right.

MR. STRAUS: At this time, I offer in
evidence collective, your Honor, as -- to be received
as Exhibit 12 in evidence, corresponding to

1
2 Schedule 1 and additions to Schedule 1a, the
3 documents described by the witness.

4 MR. SASSOWER: I assume, your Honor that --

5 THE REFEREE: Petitioner's Exhibit 10 and
6 11 were for identification.

7 MR. STRAUS: For identification only.

8 MR. SASSOWER: I object to it unless
9 Mr. Straus contends or witness contends that
10 these were filed in violation of court order.

11 Is that what you are saying?

12 MR. STRAUS: As a matter of fact, I'm glad
13 you raised that point, Mr. Sassower.

14 I believe, your Honor, having conferred
15 with witnesses --

16 THE REFEREE: Yes. The heading of the
17 schedule, which was deleted by Mr. Straus,
18 originally presented alleged violations of court
19 order.

20 MR. STRAUS: The reason that I deliberately
21 omitted that is a result of conversations with
22 Mr. Schneider and other witnesses. I believe,
23 that some of these may not constitute violations
24 of the court order, of a court order.

25 However, they are included as well with

reference to Charge 4, which charges a pattern of frivolous, vexatious litigation, and for that purpose I would be offering them.

I want the opportunity in a post-hearing memorandum to indicate to your Honor which I believe were not commenced in violation of a court order, and I represent that I will undertake to do so.

I do not ask your Honor to take these as violations of court orders.

THE REFEREE: Can you separate them now, those which you believe may not have been?

MR. STRAUS: Yes, I think Mr. Schneider can do that.

MR. SASSOWER: Fine.

DIRECT EXAMINATION

BY MR. STRAUS:

Q Do you have any problem doing that?

A No, I believe I can.

Q In --

THE REFEREE: Take your time and remove those documents which you believe have no relationship or were not in violation of any court order.

1
2 MR. STRAUS: However, your Honor, the
3 reason that I will be offering them in evidence,
4 in any event, whether or not they violate a
5 court order, is because they are part of a pat-
6 tern of frivolous litigation.

7 That's the offer.

8 MR. SASSOWER: I ask your Honor to save
9 time --

10 The ones that he identified that are in
11 violation of a court order, if, as part of the
12 answer he would state which order purportedly
13 the lawsuit --

14 MR. STRAUS: It states in violation of
15 court order --

16 MR. SASSOWER: I want to know which one it
17 is.

18 It will save me cross-examination on the
19 same subject.

20 MR. STRAUS: I don't know what the problem
21 is.

22 If Mr. Schneider indicates that is not in
23 violation --

24 MR. SASSOWER: If he says it is in violation
25 of a court order or court orders --

1
2 MR. STRAUS: He has not testified that any
3 of these --

4 MR. SASSOWER: When he testified --

5 MR. STRAUS: He has not testified to that.
6 He's only indicating which documents he believes
7 were not instituted in violation of any court
8 order, and, therefore, they should not be consid-
9 ered by the Referee for that purpose.

10 He's testified to orders that were institut-
11 ed and he's testified to orders which were enter-
12 ed, and he's testified to actions which were
13 instituted following the date of those orders
14 which is all he's been asked to do.

15 I'm repeating on the record that some of
16 these matters do not constitute violations of
17 court orders and I'd like the opportunity to
18 allow the witness to indicate which ones he
19 believes do not violate court orders.

20 MR. SASSOWER: Fine, as long as we under-
21 stand.

22 MR. STRAUS: Is that permissible, Judge
23 Potoker?

24 THE REFEREE: Go ahead, sir.
25

DIRECT EXAMINATION

BY MR. STRAUS:

Q Are there any items in there which you believe do not violate any court orders?

A I'll need to go through them one by one.

THE REFEREE: He's going through Petitioner's --

MR. STRAUS: The problem is that he's sitting with them on his lap.

THE REFEREE: That's Petitioner's Exhibit --

(A short recess was taken)

MR. SASSOWER: Your Honor, I object to any testimony by Mr. Schneider as to which he thinks are in violation of a court order.

MR. STRAUS: He's testifying to what are not in violation, Mr. Sassower.

Do you have an objection to that?

MR. SASSOWER: I'm sorry. I had a lapse for a moment. You're right.

(Discussion off the record)

MR. STRAUS: May the record indicate that Mr. Schneider has handed me documents which

correspond to Numbers 1, 5, 8 and 10, and --

THE REFEREE: Of Petitioner's Exhibit 12.

MR. STRAUS: That's correct.

The numbers are referenced to Exhibit 10 for identification, the schedule.

THE REFEREE: May I suggest that Numbers 1, 5, 8 and 10 be removed from Petitioner's Exhibit 12 and you will re-introduce them.

MR. STRAUS: We don't have Exhibit 12 marked in evidence yet.

So, at this point, I renew my offer withdrawing documents relating to the enumerated charges and I offer this collectively as Exhibit 12.

MR. SASSOWER: As what?

MR. STRAUS: Excuse me?

MR. SASSOWER: As what?

As proceedings started in violation of the court order?

What are you offering it as?

MR. STRAUS: These documents, Mr. Sassower, are offered as copies of documents representing litigation instituted in violation of court orders.

MR. SASSOWER: That's his opinion.

1
2 MR. STRAUS: No, he didn't give any opinion.
3 I'm offering these.

4 In fact, I'm offering these simply as
5 copies of documents which were filed by Mr.
6 Sassower following the institution of various --
7 following the issuance of various court orders.

8 MR. SASSOWER: I'm asking you right now,
9 for the record, are you contending that these
10 documents violated one or more court orders? Yes
11 or no.

12 MR. STRAUS: Should I answer the question,
13 Judge Potoker?

14 THE REFEREE: I think we can save time.
15 Yes.

16 MR. STRAUS: These documents are offered
17 both as constituting a pattern of frivolous,
18 vexatious, harassing litigation and as matters
19 which were instituted in violation of the various
20 court orders to which the witness has testified
21 to and we'll offer further evidence with respect
22 to the violations of those court orders aside
23 from the documents themselves.

24 MR. SASSOWER: I'd like to know, your Honor,
25 and I think I'm entitled to know, which documents

1
2 Mr. Straus contends violated a court order
3 and may I draw your Honor's attention to --

4 THE REFEREE: He's already just stated --

5 MR. SASSOWER: No, he did not.

6 THE REFEREE: -- all documents with the
7 exception of the four that have been removed from
8 Petitioner's 12.

9 MR. SASSOWER: He has not stated that.

10 MR. STRAUS: I don't think you are entitled
11 to a statement as to which document violates
12 which court order.

13 The witness' testimony indicated and
14 the documents are in evidence, that there were
15 court orders, these documents, as Mr. Sassower
16 is always anxious to point out, speak for them-
17 selves, upon comparing the court order to the
18 documents that were filed and we'll make a
19 presentation in the form of a post-hearing memo-
20 randum.

21 I believe we'll indicate to your Honor
22 which evidence and the effect of each item
23 of evidence and how it should be considered, in
24 our opinion.

25 I don't believe Mr. Sassower is entitled to

to any more than that.

THE REFEREE: It is my function to peruse these documents and compare them to the orders.

MR. STRAUS: I certainly believe that's your purpose.

THE REFEREE: So, this witness will not be testifying, in his opinion, as a member of the law firm that they --

MR. SASSOWER: You are absolutely right at this state except for two exceptions.

Before your Honor peruses them, I'm entitled to know, so that I can meet the charge which documents, Mr. Straus, the Petitioner, contends violated a court order.

THE REFEREE: We have Schedule 1 and Schedule 1 as amended.

Mr. Straus has listed twenty-nine actions alleged to have been taken by you in violation of court order.

MR. SASSOWER: If Mr. Straus states that --

THE REFEREE: He has since deleted four of those actions, leaving twenty-six.

MR. SASSOWER: I'd like to hear the statement from Mr. Straus.

1
2 Mr. Straus, are you contending these 26
3 actions were in violation of court orders?

4 MR. STRAUS: I've answered that question.
5 There is no need to repeat myself.

6 MR. SASSOWER: Please repeat it.

7 I don't understand your answer.

8 I think you're hedging.

9 Are you contending that these documents
10 violated court orders?

11 MR. STRAUS: Your lack of comprehension
12 does not require me to repeat it.

13 You are indicating that you don't under-
14 stand what I am saying.

15 I think you are indicating that you don't
16 agree with what I am saying.

17 THE REFEREE: Mr. Straus is contending
18 that, Number One, they violated court orders
19 and they also constitute frivolous litigation.

20 MR. SASSOWER: Fine. Is that your under-
21 standing, Mr. Straus?

22 MR. STRAUS: I'll say it again for the third
23 or fourth time --

24 MR. SASSOWER: Do you adopt his Honor's
25 statement?

1
2 MR. STRAUS: I've said it. I think
3 that Judge Potoker, Mr. Sassower, it was on --
4 was actually summarizing what I have said on
5 two or three occasions.

6 MR. SASSOWER: Fine, as long as you adopt
7 Judge Potoker's statement, I'm satisfied.

8 THE REFEREE: Actually, I've adopted --

9 MR. STRAUS: Do you have any objection to
10 these being marked in evidence?

11 MR. SASSOWER: Subject to examination.

12 THE REFEREE: You will have a right to
13 examine every document and every witness.

14 MR. STRAUS: I have these collectively
15 as Exhibit 12.

16 MR. SASSOWER: Subject to examination.

17 MR. STRAUS: I had a folder, if that's
18 agreeable, I'll use the same folder and we can
19 mark the folder.

20 THE REFEREE: There are 26 documents in
21 there now.

22 MR. SASSOWER: Do I understand, your Honor --

23 THE REFEREE: There are 25 documents left.

24 MR. SASSOWER: I -- do I understand, your
25 Honor that it's the Court's impression --

THE REFEREE: Not my impression.

MR. SASSOWER: -- that's the Court's impression?

THE REFEREE: It is not my impression.

MR. SASSOWER: May it please the Court, am I to assume that schedule which says "Lawsuits commenced in violation of court orders" --

THE REFEREE: You wanted that deleted.

MR. SASSOWER: That's back in now, if that's his representation.

MR. STRAUS: Yes, minus the four which the witness has indicated should not be included.

MR. SASSOWER: Okay, fine.

THE REFEREE: That's Schedule 1 as amended.

MR. STRAUS: May we have these marked collectively?

THE REFEREE: There are twenty-five left; four have been removed.

They will be marked collectively as Petitioner's Exhibit 12 in evidence for the purpose of this hearing.

MR. SASSOWER: Thank you, your Honor.

Mr. Strauss, may I assume that during the recess or during the intervening days that I will

1
2 have an opportunity to examine those documents
3 at everybody's convenience?

4 MR. STRAUS: We'll make copies for you.

5 MR. SASSOWER: Fine.

6 MR. STRAUS: Or, you can examine them so
7 long as some one is present.

8 MR. SASSOWER: You can give me copies.

9 MR. STRAUS: I think you have copies of
10 all of these.

11 MR. SASSOWER: I want to see the originals
12 that you exhibit to the Judge.

13 MR. STRAUS: These are copies. I think
14 you have your own copies.

15 DIRECT EXAMINATION

16 BY MR. STRAUS:

17 Q Directing your attention to sub-paragraph B
18 of 10 for identification, which states Article 78
19 proceedings instituted in violation of court order --
20 (Whereupon at this point in the proceedings, a short recess
21 ensued)

22 (R E C E S S)

23 DIRECT EXAMINATION

24 BY MR. STRAUS:

25 Q Directing your attention to sub-paragraph B,

1 would you look at that list and tell me if the list is
2 accurate as to Article 78 proceedings that were institut-
3 ed by Mr. Sassower.
4

5 A I believe that is.

6 Q Is it a complete list of all Article 78 proceed-
7 ings instituted by Mr. Sassower?

8 A I don't believe so.

9 Q But, is every item on that list in fact a matter
10 which you know was instituted?

11 A That is correct.

12 Q I show you another group of documents --

13 MR. STRAUS: May the record show that I
14 have handed the witness a folder containing many
15 pages of documents --

16 Q -- and, I would ask you to look through here and
17 see if, in fact, the documents in here correspond to those
18 matters enumerated under sub-paragraph B of 10 for identifi-
19 cation.

20 THE REFEREE: There are 17 numbers.

21 MR. STRAUS: That's correct, your Honor.

22 Your Honor, with your permission, would it be
23 all right if the witness sat at this table while
24 he did it?

25 THE REFEREE: By all means.

MR. STRAUS: So we don't risk having these things dropped and placed out of order.

THE REFEREE: Yes.

(Whereupon a short break ensues for the purpose indicated above)

DIRECT EXAMINATION

BY MR. STRAUS:

Q Mr. Schneider, have you had a chance to look at these documents, which I've handed to you?

A Yes, I have.

Q Do they, in fact, correspond to sub-paragraph B of Exhibit 10 and 11 for identification?

A Yes, they do.

Q So that if I look at an item in this packet of documents, what is indicated as Number 1 here will, in fact, correspond to Number 1 on the list.

A That is correct.

Q At this time, is it your understanding that each of these Article 78 proceedings constituted a violation of a previous court order?

A I would have to further review each of the seventeen documents, to determine that on a case by case basis.

A You haven't reached any conclusions one way or

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2 A I did not review them for the purpose of
3 determining whether they violated the order.

4 Q I didn't expect that you'd have to, just in view
5 of what happened to sub-paragraph A --

6 MR. STRAUS: -- if your Honor wishes,
7 perhaps it would be appropriate for the witness
8 to look at these and to determine if any of them
9 do not belong under that category.

10 THE REFEREE: We'll use the same procedure
11 as we did with the previous exhibits.

12 MR. SASSOWER: May I make a suggestion?
13 Why don't you do this during the lunch period
14 and do it as to all the exhibits?

15 MR. STRAUS: This is the last packet.

16 MR. SASSOWER: Okay.

17 MR. STRAUS: This is the last packet
18 where this problem would be presented.

19 MR. SASSOWER: Okay. How long will it take,
20 Mr. Schneider?

21 I'll just go outside. Will that be all
22 right, your Honor?

23 THE REFEREE: "B" currently refers to 17
24 documents.

25 MR. STRAUS: That's correct and there are

seventeen documents in the packet handed to the witness.

THE REFEREE: The witness will now delete what he believes to be proceedings not in violation of a court order.

(Short pause ensues)

DIRECT EXAMINATION

BY MR. STRAUS:

Q Mr. Schneider, you have had an opportunity to peruse these documents again.

A Yes.

Q Are there any, which, in your opinion, do not violate a court order, and, if so, would you indicate which they are?

A I believe that each of these documents violates a court order.

THE REFEREE: All 17 of them, right?

MR. SASSOWER: Your Honor --

THE REFEREE: It's his opinion.

MR. SASSOWER: I mean, that they do? I'm not being charged here with opinions.

THE REFEREE: Sir, I'll make the ultimate decision.

MR. SASSOWER: I'm talking about the charge

1
2 itself; what am I charged with?

3 MR. STRAUS: You are charged in that charge
4 with violating various court orders.

5 THE REFEREE: It's part of the pleadings.
6 "Article 78 proceedings instituted in violation
7 of court orders."

8 MR. STRAUS: The court orders are in evi-
9 dence, Mr. Sassower.

10 It's up to the Referee to make a determinat-
11 ion from reading those court orders whether
12 these actions violated them.

13 MR. SASSOWER: No. It's the defendant's
14 right, as I understand it, to know beforehand
15 from the prosecution, in what respect these pro-
16 ceedings violated a court order.

17 I can't delve into his Honor's mind.

18 I want to meet the evidence.

19 THE REFEREE: All the court orders have
20 already been introduced in evidence, so they
21 are in evidence.

22 MR. SASSOWER: Okay.

23 THE REFEREE: Proceed.

24 MR. STRAUS: I offer these documents
25 collectively as Petitioner's Exhibit 13 in

evidence.

THE REFEREE: Petitioner's Exhibit 13.

MR. SASSOWER: That's all right?

THE REFEREE: All with respect to Article
78 proceedings.

MR. SASSOWER: Right.

THE REFEREE: Is that correct, Mr. Straus?

MR. STRAUS: That's correct.

(Received and so marked)

Q Directing your attention to, again --

THE REFEREE: Can we put a rubber band
around it?

MR. STRAUS: We will.

Q Directing your attention now to sub-paragraph C
of Exhibits 10 and 11 for identification, the caption
is "Motions made in violation of court orders" and first,
let me ask you, is that list an accurate list of motions
that were instituted in the proceedings relating to
Puccini and its shareholders by Mr. Sassower?

A That is correct.

Q Is that a complete list of all motions instituted
by Mr. Sassower in those two proceedings?

A Not at all.

Q Is the list accurate to the extent that everything

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that everything on that list was, in fact, instituted?

A Yes.

Q Did -- is this the first time that I had met you?

A No, it isn't.

Q Have we had prior discussions and meetings?

A Yes, we have.

Q During those discussions and meetings did I ask you to produce all of the motions that are enumerated in subparagraph C?

A Yes, you did.

Q What was your response?

A That it would take weeks if not months to make copies of them and it would take a truck, --

MR. SASSOWER: Objection.

A -- literally to be able to carry the bulk of these motions and bring them over here.

MR. SASSOWER: I move to strike that, your Honor.

THE REFEREE: The characterization will be deleted.

There are many more that you didn't bring, is that right?

THE WITNESS: I didn't bring any of

these more than one hundred fifty motions.

THE REFEREE: All right.

Q Without characterizing it, would you indicate that there would be difficulty complying with that request?

A Yes, there would.

MR. SASSOWER: Objection, your Honor.

I specifically asked your Honor on January 30th that Mr. Straus should subpoena them from the County Clerk's office.

THE REFEREE: Your objection is sustained.

Strike the answer.

Q Mr. Schneider, directing your attention, if I may, to a different subject --

THE REFEREE: You are not offering any exhibit with respect to --

MR. STRAUS: I'm offering no exhibit with respect to the motions.

I believe that may come in through another witness, at least to some extent.

Q You have described or enumerated various Article 78 proceedings, motions and the institution of actions, all of those actions instituted by Mr. Sassower.

Would you indicate on how many of them was he successful?

Did he get the relief that he requested?

MR. SASSOWER: Objection.

A Mr. Sassower did not prevail in one litigation.

THE REFEREE: Overruled. All the motions were denied.

THE WITNESS: I understood the question to be whether he prevailed ultimately in the litigation.

Q All of the litigation that you have described in those matters which were listed in 10 and 11 for identification.

A It's a terminology question.

Mr. Sassower did prevail on a few motions.

Q What were those motions?

A At a time when he was still representing Mr. Raffe, Mr. Raffe was awarded a judgment over on an indemnification claim against the receiver and certain Puccini shareholders. That was in an action bearing New York County index number 16792 of 1980.

Mr. Sassower obtained from Judge Dantzig a reversal of his disqualification, sometime in 1984 and 1985, and that reversal stood until it was reversed by the Appellate Division on appeal.

There may have been --

1
2 Q May I stop you at this point with relation
3 to that?

4 You mentioned a reversal on appeal and I show
5 you a document and ask you if this is the decision that
6 you are referring to?

7 Is this a copy of the decision that you are re-
8 ferring to?

9 THE REFEREE: That's Exhibit 14 for
10 identification.

11 A Yes, it is.

12 MR. STRAUS: I offer this in evidence
13 as Petitioner's Exhibit 14.

14 THE REFEREE: Mr. Strauss, will you look
15 at it, please?

16 MR. SASSOWER: No objection.

17 THE REFEREE: No objection. It will be re-
18 ceived as Petitioner's Exhibit 14.

19 (Received and so marked)

20 Q I don't mean to interrupt you.

21 Were there any other actions in which Mr. Sassower
22 was successful?

23 A There was a motion made by Mr. Raffe, Mr. Sassower's
24 client, purporting to appear pro se which sought to strike
25 a jury demand.

That motion was denied but was reversed by the Appellate Division.

I included that in the motions on which Mr. Sassower was successful because there has been sworn testimony by Mr. Raffe that although his name appeared on the papers pro se, Mr. Sassower authored all such papers.

There was an appeal on a discovery issue filed by Mr. Raffe again purporting to appear pro se where I believe he prevailed in some part and his adversaries were directed to furnish some discovery.

I would imagine there may have been one or two or three other motions, perhaps, in which Mr. Sassower prevailed.

I cannot recall any specifically.

Q Can you tell us approximately how many, the total number, of motions, Article 78 proceedings, summonses and complaints, how many proceedings were instituted or how many motions brought, the total number?

A I can break it down by category.

There were, I believe, thirty lawsuits.

MR. SASSOWER: This a part of a schedule?

MR. STRAUS: No. This is not part of a schedule.

The witness is testifying to it.

A I believe there have been over twenty-five
Article 78 proceedings in connection with Puccini Clothes.

Q All brought by Mr. Sassower.

A That's correct.

THE REFEREE: All brought after he had
been barred by the courts to bringing lawsuits.

MR. SASSOWER: I object to your Honor's
question.

It's drawing a question prematurely.

THE REFEREE: Overruled.

THE WITNESS: All brought in violation of a
court order.

THE REFEREE: I want to distinguish between
your lawsuits that you brought.

MR. SASSOWER: Judge, I don't want you to
get set --

THE REFEREE: As attorney for Puccini
Clothes and those which they are not charging
you with, you were in violation.

MR. SASSOWER: I don't want you to get set
in your mind that I violated anything.

THE REFEREE: As far as we're concerned,
we started with a clean slate.

MR. SASSOWER: That's the way I like it.

THE REFEREE: Twenty-five Article 78 --

THE WITNESS: Mr. Sassower has also brought more than two hundred motions in connection with the Puccini Clothes, and I believe Mr. Sassower authored a letter of complaint which his client signed directed to the Grievance Committee against all of the law firms who are involved in the Puccini dissolution at that time.

DIRECT EXAMINATION

BY MR. STRAUS:

Q You indicated that Mr. Sassower had served complaints, is that correct?

I mean summonses, excuse me.

And, were summonses served in certain actions?

A That's correct.

Q Did you have any estimate as to how many summonses were served by Mr. Sassower at his direction?

A Each of the, at least thirty lawsuits were commenced by service of a summons and on some occasions a complaint accompanied the summons.

On others, on occasions, the action was instituted by a bare summons and no complaint was ever served.

Q Of those approximately thirty summonses were never accompanied by a complaint.

A I don't want to -- I don't want to guess -- I could answer that only by reviewing the complaints which have been marked in evidence.

Q Would you say it was more than ten occasions?

A It would be pure speculation.

I think that's probably correct, but I don't want to state that as a fact.

Q Were there occasions in which orders to show cause were brought by Mr. Sassower in which he indicated that they were being brought?

A There were a large number of instances when Mr. Sassower would call myself and the other attorneys in the Puccini dissolution and tell us that he would be seeking interim relief from the Appellate Division on some issue and that he would be at the Appellate Division to request that relief at a certain time.

Q About how many times did he do that?

A Anywhere between twenty and forty times.

Q And, in response to that, did you go to the Appellate Division?

A Yes.

Q Were there occasions when Mr. Sassower was not

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there?

A There were some occasions when Mr. Sassower never appeared.

Q About how many of those, how many such occasions?

MR. SASSOWER: Your Honor, there is no charge like that.

MR. STRAUS: I respectfully submit, Mr. Sassower that we are dealing with the area of vexation.

MR. SASSOWER: I'd like specifics, and I think his Honor is entitled to it.

THE REFEREE: Go ahead.

A I would say on two, three or four occasions.

Q Were there -- the various litigations which Mr. Sassower instituted, were there occasions in which he made motions to intervene in a matter?

A Yes.

Q How many motions did he make to that effect?

A I would estimate anywhere between ten and 20.

Q How many different jurisdictions did Mr. Sassower bring these matters in?

MR. SASSOWER: I think the summonses and complaints speak for themselves.

MR. STRAUS: The witness has already

testified that that's not a complete list.

THE REFEREE: Overruled.

A Mr. Sassower has commenced litigation in the New York State Supreme Court, County of New York, Westchester, Nassau County, Kings County.

He brought one proceeding in the New York State Court of Claims.

He has brought a number of actions in the United States District Court in the Southern District of New York and one in the Eastern District of New York.

He has commenced original proceedings in the Appellate Division, First Department, Second Department and Third Department.

And we have litigated appeals and motions in the United States Court of Appeals for the Second Circuit of New York.

Q And all of that litigation, was that all pertaining to Puccini or its shareholders?

A Yes, it was.

Q Were there motions to transfer venue made by Mr. Sassower?

A Yes, there were.

Q On how many occasions?

A It's difficult for me to estimate.

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2 I would say in the last month alone, he's made
3 at least five motions to transfer venue and prior to that
4 time he had also made a number of motions.

5 Q In the most recent motion which was the venue
6 to be, where did he request the venue should lay?

7 MR. SASSOWER: Your Honor, for a moment,
8 I'd like to know what is proper and what is not
9 proper.

10 In my opinion, and I don't know if your
11 Honor shares it or not, a motion to transfer for a
12 change of venue, for whatever reason, is that a
13 charge that something is wrong with it?

14 Is that a charge that something is wrong,
15 to transfer venue?

16 MR. STRAUS: Judge Potoker, do you want
17 me to respond to the question?

18 THE REFEREE: Go ahead.

19 MR. STRAUS: The charge is vexatious,
20 frivolous, harrassing, repetitive litigation,
21 and, that covers bringing it in courts all over
22 the State of New York, without any relation to
23 the parties, and, in fact, if you will allow me
24 to continue, I'll bring it out further so you
25 might --

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MR. SASSOWER: I'd like to see specifics.

What he's referring to.

May I just have a moment?

THE REFEREE: All right, go ahead.

(short pause ensues)

MR. STRAUS: May I proceed, Judge Potoker?

MR. SASSOWER: I'd like to have specifics.

THE REFEREE: Go ahead, Mr. Straus.

DIRECT EXAMINATION

BY MR. STRAUS:

Q With respect to these venue motions made by Mr. Sassower, would you indicate to me, please, the shareholders of Puccini; where do they reside? Do you know?

A I believe they all reside in the boroughs of New York or on Long Island.

Q And their attorneys, where are their attorneys located?

A All of the attorneys are in New York City.

Q Where did Puccini have it's principal office?

A In Brooklyn.

Q And the receiver is a member of your firm, correct?

A That's correct.

Q His office is located in Manhattan.

A That's correct.

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2 Q Was there any party in these litigations who
3 resided outside the City of New York, to your knowledge?

4 Or, had their principal office there?

5 A I believe Puccini shareholders Dann and Sorrentino
6 may reside on Long Island.

7 Q That would be the Second Department then?

8 A That's correct.

9 Q Would you be able to estimate in how many cases
10 Mr. Sassower has asked for the same relief which he had
11 applied for previously?

12 MR. SASSOWER: Objection, your Honor.

13 THE REFEREE: I'll allow it.

14 MR. SASSOWER: I'd like to have some
15 specificity, your Honor.

16 MR. STRAUS: We're limiting it to Puccini
17 and its shareholders.

18 MR. SASSOWER: I'd like to see papers.

19 I'd like to see dates.

20 I'd like to see some identification.

21 THE REFEREE: Do we have any of those
22 records?

23 MR. STRAUS: Well, some of them are in
24 evidence.

25 The motions we do not have.

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2 We'll have some testimony, but I think
3 that the testimony is appropriate.

4 Mr. Schneider has indicated that he had
5 been involved in this litigation for the past four
6 years and he can testify to the number of motions
7 that have been brought.

8 THE REFEREE: Go ahead.

9 A Most of the motions made by Mr. Sassower in
10 the last few years have been repetitive of motions previous-
11 ly made and denied.

12 MR. SASSOWER: Object to the conclusion.

13 THE REFEREE: In your opinion, would you
14 say they were repetitive, similar to the motions
15 already disposed of previously?

16 THE WITNESS: That's correct.

17 THE REFEREE: All right.

18 Q The question was, was the same relief requested
19 in subsequent motions as had been enied in previous
20 motions? That's the question.

21 A The answer is, "Yes."

22 Q The litigation which has been instituted by Mr.
23 Sassower, has he instituted litigation against judges who
24 have presided over Puccini and its related matters?

25 A On many occasions.

Mr. Sassower's tactics is to sue every judge who rules adversely to him.

MR. SASSOWER: Objection.

THE REFEREE: Sustained.

Q He's sued various judges.

Do you know of your own knowledge, how many Judges have been sued by Mr. Sassower?

MR. SASSOWER: Are you talking about actions or special proceedings?

THE WITNESS: Yes, I do.

Q How many?

A Mr. Sassower has sued every judge of the New York State Supreme Court County of New York, however many judges there are in that many of the actions named as a defendant or a respondent, the New York State Supreme Court, County of New York.

He's also sued judges in their individual names.

He has sued various judges of the Appellate Division, First Department in addition.

Q I think you indicated that there were referees involved in some of these proceedings pertaining to Puccini and its shareholders.

A There was a referee involved.

Q Was the referee the subject of any action by

1
2 Mr. Sassower?

3 A Referee Diamond was named a defendant or respon-
4 dent by Mr. Sassower on a number of occasions.

5 Q You have personal knowledge of that, is that cor-
6 rect?

7 A That is correct. I have seen the pleadings.

8 A The attorneys who appeared in opposition to
9 Mr. Sassower, have there been suits instituted against the
10 attorneys?

11 A Mr. Sassower has sued all of the law firms in-
12 volved in the Puccini dissolution on numerous occasions
13 and so on, on occasions has made individual partners
14 or associates of those firms as additional named defendants.

15 Q Has he instituted any proceedings against public
16 officials pertaining to Puccini and its shareholders?

17 A Yes, he has.

18 Q Could you indicate who they are?

19 A Mr. Sassower has commenced lawsuits and Article
20 78 proceedings against Attorney-General Robert Abrams,
21 against Assistant Attorney-General Earl David Cook.

22 Q Now, as a result of this litigation or various
23 litigations that Mr. Sassower has instituted, have there
24 ever been any legal fees, fines, costs, assessed against
25 him?

A Yes, there have been.

Q Could you give us a breakdown, if you would, of what those figures are, to the best of your knowledge?

A Mr. Sassower was assessed attorney's fees by Federal Judge Nickerson in the approximate amount of \$23,000.

Judge Conner, in dismissing four Federal Court actions directed that attorney's fees are assessed against Mr. Sassower but he has not entered a judgment determining the amount of such fees. There are presently fee applications pending before him.

Q Do you know the amount applied for?

MR. SASSOWER: Objection.

THE REFEREE: In excess of thirty or forty thousand dollars.

Overruled.

A There have been a number of orders entered by different judges and Referee Diamond in the New York State Supreme Court assessing fines and costs and fees against Mr. Sassower.

There have been a large number of those decisions.

Q Do you have any idea of the total amount?

A I would think in excess of \$30,000.

Q In response to the litigation which Mr. Sassower

has instituted, approximately how many hours have you been required to devote to these matters?

A Me, personally, or my firm?

Q You or your firm.

A I reviewed our time records prior to testifying today for 1984 and 1985.

In those years, attorneys of my firm, including myself, have expended between 1500 and 2,000 hours each year solely to the Puccini-related litigation.

In 1982 and 1983, I have not reviewed my records and I think the amount would be somewhat less.

MR. SASSOWER: Objection.

Next time you come here, will you bring those records with you?

MR. STRAUS: Is that n objection?

MR. SASSOWER: He's giving a summary of documentary evidence.

THE REFEREE: So you will ask him on cross-examination.

MR. SASSOWER: The reason I said it at this time, your Honor, I didn't want him to come back this afternoon or Monday.

THE REFEREE: Do you have ny records to substantiate your contention that, at least,

1500 to 2,000 hours were expended each year
in '84 and '85?

THE WITNESS: Those records were served
upon Mr. Sassower as part of fee applications
that our firm has made, and Mr. Sassower has
copies, and they were also filed in the New York
State Supreme Court.

MR. SASSOWER: Just bring them.

You're giving summary testimony.

THE REFEREE: He says you already have
copies of what you are asking.

MR. SASSOWER: Judge, I know what I have,
okay, please.

Mr. Schneider does not know what I have.

DIRECT EXAMINATION

BY MR. STRAUS:

Q Is it your testimony that you have provided
Mr. Sassower, in relation to other proceedings, with
schedules and lists of the amount of time that you have
been required to devote or your firm has been required to
devote?

A In connection with proceedings relating to
Puccini Clothes and with fee applications made from time
to time.

Q And, the amount of hours, the total amount of hours then between 1982 and the present date, you would estimate as to how many hours?

A I would say anywhere between four and six thousand hours.

THE REFEREE: Pardon?

THE WITNESS: Four thousand six thousand hours, and I think that's a very conservative estimate.

Q That would be devoted to the litigation pertaining to Puccini and its shareholders.

A Yes.

Q Does your firm have a rate at which you bill on an hourly basis?

A Yes.

Q What is that rate?

A My present rate is \$165. an hour.

The rate has been increased from time to time.

It was somewhat lower when I first started working on this case.

Q Have your fees been paid?

A To the extent that my firm has applied to the court to fix fees, they have been paid. We have not applied

for fees for the work done over the last many months, and we have incurred time charges and disbursements for that period for which we have not applied in excess of \$150,000.

Q Who paid your legal fees?

A The fees are awarded out of the corpus of the Puccini estate.

Q And how much have you been paid thus far as a result of court direction or decision?

A Approximately \$550,000.

Q Five hundred fifty thousand dollars?

A That's correct.

Q And what was the --

When you came into the Puccini litigation, what were the total assets of Puccini?

A As of February 1982, the assets of Puccini were between five hundred thousand and six hundred thousand dollars.

MR. SASSOWER: The assets were between five hundred and six hundred thousand dollars.

THE WITNESS: The assets were turned over to the receiver.

Q If I understand you correctly, your attorney's fees alone would be approximately equal to the entire

1
2 value of the Puccini concern, is that right?

3 MR. SASSOWER: No. He said the assets
4 turned over.

5 MR. STRAUS: Is that correct?

6 Q Or, can you answer my question, first of all?

7 A Could you repeat that?

8 Q You said you have had attorneys fees which, up
9 to this point, and omitting what you may apply for, have
10 totaled approximately five hundred fifty thousand dollars.

11 You indicated that Puccini, at the time that
12 you came into the case had a worth of approximately
13 five hundred to six hundred thousand dollars.

14 MR. SASSOWER: That was not his testimony.

15 MR. STRAUS: That is correct.

16 MR. SASSOWER: That was not his testimony.

17 THE WITNESS: May I clarify my testimony?

18 MR. SASSOWER: Please.

19 THE WITNESS: The assets of between five
20 hundred thousand and six hundred thousand dollars
21 were turned over to the receiver at the time he
22 qualified.

23 MR. SASSOWER: That doesn't mean that the
24 assets were that.

25 MR. STRAUS: Mr. Sassower, if you have an

objection, please make it.

THE REFEREE: Mr. Sassower, the witness was asked what were the assets at the time they were turned over to the receiver.

MR. SASSOWER: He -- that was not his answer, your Honor.

THE REFEREE: I wrote it down. He just repeated it.

The Court Reporter will read it back to satisfy Mr. Sassower.

MR. SASSOWER: Okay. The assets were five hundred to six hundred thousand dollars.

THE REFEREE: Wait until the Court Reporter reads it back.

MR. SASSOWER: If that's it, your Honor --

THE REFEREE: No, sir. You raise the question and doubt whether or not it is true.

MR. SASSOWER: I'm saying the question and the answer are different.

MR. STRAUS: The question and the answer are usually different.

MR. SASSOWER: No, you -- okay.

THE REFEREE: Wait for the Reporter to read the witness' response.

(Whereupon the Official Court Reporter repeated as requested)

Q Were there any other assets of the concern which existed which were not turned over to the receiver?

A There is presently pending an action brought by the receiver for declaratory judgment, to determine if the receiver has a claim against certain entities for funds disbursed from the assets of Puccini after the dissolution, but before the receiver qualified so to the extent that there may be a cause of action, that's an unliquid asset, so to speak, that the receiver may possess.

Q But the assets that you were testifying to, did that constitute the inventory of Puccini, the business, the good will, assets of the operation?

A The assets that were turned over to us, I believe, were proceeds of bank accounts, CDs and a stock certificate.

Q You indicated that you are in a twelve person law firm, correct?

A There are presently 12 attorneys.

Q Twelve attorneys and you have supporting staff, I assume.

As a result of the thousands of hours which you have indicated that you put in, did that have any effect

on the way that you were able to conduct your practice?

A Well, because of the substantial time that I personally have had to devote to this matter, as well as various associates of the firm, there have been times when it has been difficult, if not impossible, to get to other litigation matters and other litigation clients of the firm because there are times when, in this case, we have to devote full days and full weeks responding to Mr. Sassower's litigation.

(Whereupon an off-the-record discussion ensued at this point)

MR. STRAUS: May I continue, Judge Potoker?

THE REFEREE: Yes.

DIRECT EXAMINATION

BY MR. STRAUS:

Q Mr. Schneider, did you bring, or did you make any motions or engage in any efforts to punish Mr. Sassower for the conduct that you have described?

A Yes, we did.

Q Did you bring any motions to hold him in contempt?

A Yes, we did.

A Specifically, did you bring an action for contempt based on Judge Gammernan's order?

A We have brought a number of motions to punish

1
2 Mr. Sassower for contempt for different instances where Mr.
3 Sassower violated Judge Gammernan's order.

4 MR. SASSOWER: Where you contended --

5 MR. STRAUS: Is that an objection?

6 THE REFEREE: No objection.

7 MR. SASSOWER: No objection.

8 Q As a result of those motions, did you obtain
9 a contempt order against Mr. Sassower?

10 A We have obtained, I believe, three -- strike
11 that -- four different contempt orders against Mr. Sassow-
12 er.

13 I'm not sure that all of them relate solely to
14 Judge Gammernan's order.

15 Q Did you have -- did Judge Alvin Klein of the New
16 York County Supreme Court render an order holding Mr.
17 Sassower in criminal contempt?

18 A Yes, he did.

19 Q And, I show you a document, and ask you if this
20 is a copy of that order?

21 A Yes, it is.

22 MR. STRAUS: I offer this in evidence as
23 Petitioner's Exhibit 15.

24 Mr. Sassower, do you want to look at it?

25 MR. SASSOWER: No. I'll look at it.

THE REFEREE: That will be received
as Petitioner's Exhibit 15.

(Received and so marked.)

Q Did Mr. Sassower appeal that order?

A Yes, he did.

Q I show you a document and ask you if this is a
copy of Mr. Sassower's brief and appendix relating to
that appeal?

THE REFEREE: That will be Petitioner's
Exhibit 16 for identification.

MR. SASSOWER: Right.

A It appears to be.

MR. STRAUS: I offer this in evidence as
Petitioner's Exhibit 16.

MR. SASSOWER: No objection.

THE REFEREE: No objection.

MR. SASSOWER: Subject to examination at a
future date.

THE REFEREE: Petitioner's Exhibit 16.
(Received and so marked)

Q Do you know the result of that appeal?

A Yes, I do.

Q What was it?

A The Appellate Division, First Department,

unanimously affirmed the contempt order.

Q Is this a copy of the decision of the Appellate Division, First Department pertaining to that conviction?

A Yes, it is.

MR. STRAUS: I offer this in evidence as Petitioner's Exhibit 17.

MR. SASSOWER: No objection.

(Received and so marked)

Q Thereafter, did Mr. Sassower appeal to the Court of Appeals of the State of New York?

A He filed an appeal with the Court of Appeals.

Q What was the outcome of that application?

A I believe that the Court of Appeals dismissed his appeal.

Q I show you a copy of a one-page document, and ask you if this is a copy of the dismissal of the appeal?

A It appears to be.

MR. STRAUS: I offer this in evidence as Exhibit 18.

MR. SASSOWER: No objection.

(Received and so marked)

MR. SASSOWER: Your Honor, I don't particularly agree with the characterization that the document speaks for itself.

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2 THE REFEREE: Well, a document which is in
3 evidence obviously speaks for itself, otherwise
4 it wouldn't be in evidence.

5 MR. SASSOWER: But I'm not agreeing with
6 the characterization made by the witness.

7 Q This criminal con tempt conviction, the original
8 order of conviction is dated July 1st, 1985.

9 After July 1st, 1985, did Mr. Sassower continue
10 to bring litigation?

11 A Yes, he did.

12 Q AGain, I'm referring only to Puccini and its
13 shareholders.

14 A That's correct, he did bring litigation after
15 June 1, 1985, in connection with Puccini and its share-
16 holders.

17 Q So that would be after the contempt conviction.

18 A That's correct.

19 Q I believe you testified that you brought other
20 motions to hold Mr. Sassower in contempt, is that correct?

21 A Yes, it is.

22 Q And, did one of them result in a decision by
23 Judge Saxe of the New York County Supreme Court?

24 A Yes, it did.

25 Q If I may show you a rather large document,

1
2 and ask you if this is a copy of the motion, notice of
3 motion and moving papers that you submitted in connection
4 with that contempt proceeding.

5 A By -- which resulted in the decision by Judge
6 Saxe?

7 Q That's correct.

8 A Yes, it is.

9 Q Is that your original notice of motion?

10 A It is a copy of our notice of motion.

11 MR. STRAUS: I offer this in evidence
12 as Exhibit 19.

13 MR. SASSOWER: I'll do it during one of
14 the days that we don't have a session. I'll look
15 at it.

16 MR. STRAUS: That would be the notice of
17 motion pertaining to that application, your
18 Honor.

19 That would be 19 in evidence.

20 (Received and so marked)

21 MR. SASSOWER: May we have the date because
22 I think the testimony is incorrect.

23 There were motions made almost simultaneous-
24 ly.

25 MR. STRAUS: Hold on. The notice of motion

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2 was returnable April 23rd, 1985.

3 MR.SASSOWER: Judge Klein was returnable
4 when?

5 MR. STRAUSS: Those are already in evidence.

6 MR. SASSOWER: The testimony was that was
7 done after Judge Klein's conviction.

8 We are talking about a contempt conviction
9 which was brought before Judge Saxe.

10 I don't know what you're referring to.

11 Your question was and the answer given
12 was that this Saxe motion was made after the
13 Klein conviction.

14 MR. STRAUS: That was not the question at
15 all.

16 The question was, "Did you bring additional
17 litigation after you had been held in contempt?"

18 MR. SASSOWER: I did not. That was not
19 after I was held in contempt.

20 THE REFEREE: The original question was
21 after July 1985, at least, that's what you
22 testified to, is that right?

23 THE WITNESS: That's correct.

24 THE REFEREE: This notice of motion is
25 made --

MR. STRAUS: There is a different contempt proceeding.

I think, specifically, the first question -- let me go back, if I may.

DIRECT EXAMINATION

BY MR. STRAUS:

Q You have testified to a finding by Judge Klein and a holding, an additional holding, a decision holding Mr. Sassower in criminal contempt of court, correct?

A That's right.

Q Specifically, after that decision by Judge Klein holding Mr. Sassower in criminal contempt of court, did Mr. Sassower institute an additional litigation pertaining to Puccini and its shareholders?

A Yes, he did.

Q That was the question the last time and I think that's the same answer.

MR. SASSOWER: Yes, but Saxe is not afterward.

MR. STRAUS: Mr. Sassower, I'm asking Mr. Schneider if he brought other contempt proceedings.

MR. SASSOWER: Yes, fine.

MR. STRAUS: He testified that he brought

several motions to hold you in contempt.

This is a different motion which came on to be heard before Judge Saxe.

MR. SASSOWER: Right, but that was not after Judge Klein.

That's all I'm trying to tell you.

MR. STPAUS: May that be received in evidence?

This is the notice of motion and supporting papers.

That will be 19, I believe.

(Received and so marked)

Q Did Mr. Sassower submit papers in opposition to the motion?

A I believe that he did.

Q I show you three documents and ask you if you recognize these?

First of all, I'm showing you one document with writing.

A That's a photocopy of handwritten notes that I made when I received this document which I'm holding.

Q Thank you.

A May I see the original contempt motion?

Q Do you recognize those documents?

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A Yes, I do.

Q Are these the opposition papers submitted by Mr. Sassower?

A There were two affirmations submitted by Mr. Sassower as well as a cross-motion.

MR. STRAUS: Your Honor, at this time, I offer these documents in evidence.

Let me describe them, after Mr. Sassower has seen them

MR. SASSOWER: I'll only object to the markings on them.

MR. STRAUS: We're not going to offer them as to the markings.

I'll make the offer specific, that the handwritten notes --

MR. SASSOWER: Let me tell you something, Mr. Straus, and I think his Honor will share my opinion.

I would appreciate it if you would offer clean documents, because by the time his Honor or anybody looks at the documents, you forget that certain things were not part.

So, from now on, try to --

MR. STRAUS: We certainly will try to

1
2 do our best to comply with that.

3 If you have another copy which is clean,
4 I'll have no objection to substituting it.

5 The best we can do is indicate that those
6 things which are not part of the offer, and
7 should not be considered on the record.

8 The witness has indicated specifically
9 that he made some notes in the upper right-hand
10 corner and the offer does not relate to those.

11 MR. SASSOWER: I'm saying --

12 MR. STRAUSS: I understand.

13 We'll try to offer the cleanest copies
14 that we can, as Exhibit 20 in evidence, I offer
15 a notice of cross-motion and annexed affirmation
16 by Mr. Sassower consisting --

17 I should also indicate that on Page 2,
18 there are some additional handwritten notes.

19 Q Are those also your notes?

20 A They appear to be.

21 MR. STRAUS: Those are not offered as well
22 and we ask your Honor to disregard them.

23 I don't think they are legible, in any event.

24 I have no idea -- I can't make it out, and
25 some attachments. That would be 20 in evidence.

MR. SASSOWER: No objection.

(Received and marked Petitioner's 20 in evidence)

MR. SASSOWER: Again I'll check them at a later date to see if they are complete and everything else.

MR. STRAUS: As 21 in evidence, I offer a four page document, a copy of which is an affirmation in opposition submitted by Mr. Sassower.

That will be 21 in evidence.

MR. SASSOWER: What date was the affirmation?

MR. STRAUS: The affirmation is dated April 22nd, 1985.

MR. SASSOWER: Thank you.

(Received and so marked)

MR. STRAUS: As 22, as 22 in evidence, I offer a five-page document, photocopy of an affirmation, additional affirmation in opposition dated May 1st, 1985, submitted by Mr. Sassower.

This would be Number 22 in evidence.

MR. SASSOWER: Okay.

(Received and so marked)

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2 Q I show you another document pertaining to
3 this and ask you if you recognize this?

4 A Yes, I do.

5 Q Would you describe it, please?

6 A This is a copy of an affirmation that I signed
7 in opposition to the cross-motion made by Mr. Sassower
8 and in further support of my motion for contempt sanctions.

9 MR. STRAUS: I'll offer that in evidence
10 as --

11 MR. SASSOWER: What date?

12 MR. STRAUS: This is dated -- the affirm-
13 ation is dated April 19, 1985.

14 MR. SASSOWER: Thank you.

15 THE REFEREE: No objection.

16 MR. SASSOWER: As I said, subject to verifi-
17 cation at a later date so I don't take up the
18 time.

19 In fact, I don't have my copies here so I
20 can't check if it's complete.

21 (Received and marked Petitioner's Exhibit 23 in evidence)

22 MR. SASSOWER: I think I explained to your
23 Honor that I did not expect Mr. Schneider's testi-
24 mony today so I did not bring any of the documents
25 relating to his testimony.

1

2

Q Did Judge Saxe issue a decision?

3

A Yes, he did.

4

Q Let me show you a document consisting of four pages and ask you if this is a decision rendered by Judge Saxe with respect to this proceeding.

7

A Yes, it is.

8

Q This is designated a memo, correct?

9

A The word "memo" is stamped on it.

10

In my opinion, it's a decision which directed us to settle an order.

12

Q It does --

13

MR. STRAUS: It does speak for itself.

14

May we have this marked in evidence as Exhibit 24?

15

16

MR. SASSOWER: No problem.

17

(Received and so marked)

18

MR. STRAUS: Exhibit 24 provides --

19

MR. SASSOWER: It speaks for itself.

20

MR. STRAUS: That's correct, but I'm asking the witness something about it.

21

22

THE REFEREE: You may inquire.

23

Q It provides, "settle order in conformity with the foregoing" and it says the proposed order should contain among other things a listing of every lawsuit,

24

25

1
2 proceeding, parenthesis, Article 78 or otherwise, closed
3 parenthesis, motion, order and/or appeal in connection
4 with Messrs. Sassower, Raffe and Raffe's involvement.

5 Directing your attention to that, did you sub-
6 sequently submit such information?

7 A Yes.

8 Q In settling the order?

9 A Yes, we did.

10 Q I show you --

11 That refers to --

12 I show you first a document which is headed
13 "Lawsuits commenced by Sassower and/or Raffe."

14 Was that submitted pursuant to that direction?

15 A To the best of my recollection, it was.

16 Q I show you another document designated "table
17 of appeals."

18 Was that submitted?

19 A To the best of my recollection, it was.

20 Q I show you another document, which is headed
21 "Article 78 Proceedings commenced by Sassower and/or
22 Raffe.

23 Was that submitted pursuant to the order?

24 A To the best of my knowledge, it was.

25 Q Finally, I show you one other document which is

headed "Motions made by Sassower and/Raffe.

Was that submitted pursuant to the order?

A I believe that it was.

MR. SASSOWER: May I ask one question?

It may save time.

May I, your Honor?

EXAMINATION

BY MR. SASSOWER:

Q Mr. Schneider, you have testified before that Schedule C annexed to the Grievance Complaint here is only a partial list.

A May I see Schedule C?

Q You said it was a partial list.

The only thing I want to ask you, sir, the list that you submitted to Judge Saxe, is that a complete list?

MR. STRAUS: I'll object to this question at this point.

He has cross-examination.

THE REFEREE: Sustained.

MR. SASSOWER: I thought I would save time this way.

MR. STRAUS: I offer in evidence -- I think we can offer these collectively as Exhibit 25, and they have been described by the

witness as submissions made in furtherance
of the order of Judge Saxe.

MR. SASSOWER: Would you ask him if they are
true and complete?

That's what I'd like to know.

THE REFEREE: Proceed. It will be received
as Petitioner's Exhibit 25.

(Received and so marked)

MR. SASSOWER: Objection, your Honor.

THE REFEREE: Objection overruled.

Was that a complete list of the information
requested by Mr. Justice Saxe pursuant to the
order?

THE WITNESS: It represents our best ef-
forts to compile all of the motions and pro-
ceedings and lawsuits that we were served.

Q Following the submission of exhibits collectively
marked 25, is that right, 25 in evidence, did Judge Saxe
issue a further order?

A He issued an order.

Q I show you a document, and ask you if this is a
copy of the order which he issued?

A Yes, it is.

THE REFEREE: Dated when?

MR. STRAUS: This order is dated --

MR. SASSOWER: Ten --

MR. STRAUS: -- July 1st, July 1st, 1985
and this is offered in evidence as Petitioner's
Exhibit 26.

MR. SASSOWER: So your Honor does not get
confused --

THE REFEREE: I'm not confused.

MR. SASSOWER: -- the Saxe order and the
compliance order are both the same date, so
that --

MR. STRAUS: That's offered in evidence as
26.

THE REFEREE: This is the Saxe order, not
the compliance order.

MR. SASSOWER: Trying to be helpful, your
Honor. May I have a continuing objection?

I have no objection, but subject to later
verification.

Q Directing your attention to Exhibit 26 in
evidence, Page 3, second paragraph, there is a reference
to schedules annexed hereto as Exhibit A, B, C and D.

Do you see that?

A Yes.

1
2 Q Is that a reference to the schedules which were
3 previously received in evidence as Exhibit 25?

4 A May I see that for a moment?

5 (Shown to the witness)

6 A Yes, it is.

7 Q Mr. Schneider, after the entry of this order
8 holding Mr. Sassower in criminal contempt, did he
9 institute additional litigation pertaining to Puccini
10 and its shareholders?

11 A Yes, he did.

12 Q Aside from that, did Mr. Sassower appeal the
13 criminal contempt conviction of Judge Saxe or by Judge
14 Saxe?

15 A He both appealed it and brought a large number
16 of habeas corpus proceedings.

17 Q First of all, did he appeal to the First Depart-
18 ment?

19 A Yes.

20 Q What was the outcome?

21 A The First Department unanimously affirmed the
22 contempt order.

23 Q I show you a copy, and ask you if this is a copy
24 of the affirmance.

25 A Yes, it is.

MR. STRAUS: I offer this in evidence
as Exhibit 27.

MR. SASSOWER: No objection.

(Received and so marked)

Q Did Mr. Sassower further seek to appeal this
matter to the Court of Appeals of the State of New York?

A Yes, he did.

Q What was the decision of the Court of Appeals?

A The Court of Appeals dismissed his appeal.

MR. SASSOWER: The document speaks for it-
self.

MR. STRAUS: We haven't offered a document
yet.

THE REFEREE: Was leave granted to appeal?

THE WITNESS: The appeal, the notice of
appeal filed by Mr. Sassower without leave was
dismissed.

Q I show you a copy of a one page document, and
ask you if this is a copy of the order of dismissal of
the appeal?

THE REFEREE: Dated when?

MR. STRAUS: This is dated November 21st,
1985.

A This appears to be an order dismissing the appeal

from Judge Saxe's order as well as an appeal taken from another decision as well.

Q There are three matters captioned on this document, is that correct?

A Yes.

Q Can you indicate which ones, which is the reference to Judge Saxe's order?

A The middle of the three captions.

Q Do you know what the other two are?

A The bottom caption reflects an Article 78 proceeding brought by Mr. Sassower at the same time he was taking a direct appeal from Judge Klein's contempt order and Judge Saxe's contempt order.

He brought an Article 78 proceeding against Judges Klein and Saxe and when that was denied, he sought to appeal that denial from the Court of Appeals, and this order appears also to cover the dismissal of the appeal from the Article 78 proceeding.

Q Do you know what the top-captioned matter is of the three?

A No, I don't.

MR. STRAUS: I offer this in evidence.

THE REFEREE: It will be Exhibit 28. Any objection?

MR. SASSOWER: No objection.

(Received and marked Petitioner's Exhibit 28 in evidence)

DIRECT EXAMINATION

BY MR. STRAUS:

Q Mr. Schneider, did you -- you indicated that you brought other contempt proceedings as well.

Did one of them result in a decision by Judge Martin Evans of the New York State Supreme Court?

A Two separate contempt proceedings resulted in separate decisions by Judge Martin Evans.

Q Specifically, did you institute or bring a motion on January 30, 1985, for the purpose of holding Mr. Sassower in contempt?

A Yes, we did.

Q I show you a copy of a notice of motion and annexed exhibits and I ask you if this is a copy of the document that you served?

A Yes, it is.

MR. STRAUSS: I offer this in evidence as Exhibit 29.

This is a notice of motion.

It's an affidavit attached dated January 30, 1985.

MR. SASSOWER: Subject to verification.

(Received and marked Petitioner's Exhibit 29 in evidence)

Q Did Mr. Sassower submit papers in opposition to Exhibit 29?

A He submitted papers in response.

Q In response -- excuse me.

A Yes.

Q I show you a document, and ask you if this is the copy of the papers that he submitted in response?

A This is one of the documents he submitted in response.

Q Let me --

MR. STRAUS: Let me offer this in evidence first as Petitioner's Exhibit 30, a --

MR. SASSOWER: Wait. What's 29?

MR. STRAUS: Twenty-nine is the notice of motion.

MR. SASSOWER: Oh.

MR. STRAUS: This is a -- these are papers in opposition.

MR. SASSOWER: What date?

MR. STRAUS: Dated February 1st, 1985, together with attached affirmation, or papers in response. Excuse me.

This is offered as Exhibit 30.

THE REFEREE: No objection, Mr. Sassower.

MR. SASSOWER: No, your Honor.

(Received and marked Petitioner's Exhibit 30 in evidence)

Q I show you another document, and ask you if this is a copy of an affirmation submitted in opposition or in response to the motion?

A Yes.

This is a second cross-motion that Mr. Sassower made in response to the motion.

MR. SASSOWER: What date?

MR. STRAUS: I offer this in evidence. It's a notice of cross-motion with an annexed affidavit.

It is dated February 9, 1985.

This will be 31 in evidence.

THE REFEREE: No objection.

(Received and marked Petitioner's Exhibit 31 in evidence)

Q In addition, were some papers submitted purportedly by Hyman Raffe pro se?

A Yes.

Q Is this a copy of the document submitted purportedly by Mr. Raffe pro se?

A Yes, it is.

MR. STRAUS: I offer this in evidence as

Exhibit 32.

MR. SASSOWER: What date?

MR. STRAUS: The affidavit is dated
February 1st, 1985. Any objection?

MR. SASSOWER: No objection.

(Received and marked Petitioner's Exhibit 32 in evidence)

THE REFEREE: All right. We'll recess
at this time.

MR. SASSOWER: Could you give us about
three minutes outside of Mr. Schneider's presence?

I want to make a few statements, your
Honor.

THE REFEREE: Thank you, sir.

Be back here no later than 2:15.

(Whereupon the witness leaves the stand as indicated)

MR. SASSOWER: Your Honor, first of all,
I'm going, during the lunch hour, to the Appellate
Division.

Whether I should wait for the subpoenas
to be signed, depends on what time we'll quit
today.

Counselor tells us that first, four or
five o'clock.

THE REFEREE: I sit here five, six, seven.

1
2 MR. SASSOWER: I'll --

3 MR. STRAUS: The direct examination of
4 Mr. Schneider should be concluded within an hour
5 I would say, of our return.

6 THE REFEREE: Around 3:15.

7 MR. SASSOWER: Secondly, Mr. Straus
8 informs me that he does not intend to give
9 your Honor a trial memorandum.

10 My position is --

11 MR. STRAUS: No. I said --

12 MR. SASSOWER: A trial --

13 MR. STRAUS: -- I said I would submit a
14 post-hearing memorandum.

15 MR. SASSOWER: I mean a trial memorandum
16 that you give to the judge before trial or during
17 trial.

18 Now if your Honor's rules are that I must
19 give Mr. Straus a -- my trial memorandum at
20 this time, rather than at the end, then I have
21 no trial memorandum, but, if your Honor will
22 accept my trial memorandum without compelling
23 me to turn over a copy to Mr. Straus until the
24 completion of the case or until, until the
25 completion of the case, I'll give your Honor a

trial memorandum, so --

THE REFEREE: I don't need a trial memorandum as far as I'm concerned.

MR. SASSOWER: Judge, you really need it here.

THE REFEREE: I may need it at the end of the case to help me collate all of the facts adduced at the hearing.

MR. SASSOWER: Judge, I would prefer --

THE REFEREE: I keep copious notes and I have all the exhibits, so --

MR. SASSOWER: Judge --

THE REFEREE: If you wish to submit, submit it.

MR. SASSOWER: Will I have to give it to Mr. Straus?

THE REFEREE: He should have a copy.

MR. SASSOWER: I'll give it to him at the end of the trial.

MR. STRAUS: I don't intend to submit anything during the trial anyway. It makes no difference.

THE REFEREE: I indicated to you that I am not requiring it.

At the end of the trial you may avail yourself of that opportunity and submit.

Mr. Straus has indicated that he will submit.

MR. SASSOWER: I'm -- let me put it very directly.

Can I submit, your Honor, to your Honor a trial memorandum now and give Mr. Straus his copy at the end of the trial?

THE REFEREE: Anything you give me now should be given to Mr. Straus simultaneously.

MR. SASSOWER: Okay.

THE REFEREE: We'll see you at 2:15.

(Whereupon the matter stands in luncheon recess as indicated)

(L U N C H E O N R E C E S S)

* * * * *

(Whereupon the matter continues after luncheon recess)

MR. STRAUS: Should Mr. Schneider resume the stand?

THE REFEREE: Are you ready?

DIRECT EXAMINATION

BY MR. STRAUS:

Q Mr. Schneider, let's return to the matter of the contempt proceedings before -- which were ultimately

decided by Judge Evans.

MR. SASSOWER: Which one?

MR. STRAUS: Martin Evans.

MR. SASSOWER: Which one? There were two of them.

MR. STRAUS: The papers will have to speak for themselves.

There's a notice of motion in evidence.

Q After certain papers in opposition were received, did you or your firm submit responsive papers with respect to those motions?

A Yes, I believe so.

Q I show you an affirmation, a copy of an affirmation dated February 15, 1985, submitted by Lee Feltman, and ask you if this is a copy of the affirmation submitted in connection with the action?

A Yes, it is.

MR. STRAUS: I offer this in evidence as Petitioner's Exhibit 33.

THE REFEREE: No objection?

MR. SASSOWER: No objection with the same comment as I made before.

(Received and marked as indicated)

Q Mr. Schneider, the application or the motion to

1
2 hold Mr. Sassower in contempt, was that referred some-
3 place for a decision?

4 A Yes, it was.

5 Q Where was it referred?

6 A It was referred to Referee Diamond for a determi-
7 nation.

8 Q Did Referee Diamond issue a report with respect
9 to this motion?

10 A Yes, he did.

11 Q I show you a document consisting of seventy-one
12 pages, and, ask you if this is a copy of the report pre-
13 pared by Judge Diamond --

14 MR. SASSOWER: Not Judge Diamond.

15 MR. STRAUS: Excuse me, Referee Diamond.

16 A Yes, it is.

17 MR. STRAUS: I offer this in evidence as
18 Exhibit 34.

19 MR. SASSOWER: Objection.

20 THE REFEREE: On what grounds?

21 MR. SASSOWER: This is a report without a
22 hearing in a closed courtroom, secret courtroom
23 where I am not even admitted.

24 Now, if anybody, anybody, a judge, can
25 hold, can hold criminal contempt -- who doesn't

1
2 even have jurisdiction, he doesn't have criminal
3 powers, can hold criminal contempt proceed-
4 ings when the accused cannot even get into the
5 courtroom, you want to offer it as a document
6 for identification, fine.

7 MR. STRAUS: In fact, if you wish, the
8 document will be offered in evidence, and,
9 subsequently we'll offer an order of Judge Hughes
10 conforming -- excuse me -- an order of Judge
11 Evans confirming the Referee's report and adopt-
12 ing it and, in fact, imposing penalties on the
13 basis of the report.

14 MR. SASSOWER: What penalties did he impose?

15 THE REFEREE: That will be clear from the
16 order.

17 MR. STRAUS: That will be clear from the
18 order of contempt.

19 MR. SASSOWER: Let's put it in.

20 THE REFEREE: Referee Diamond's report will
21 be Petitioner's Exhibit 34.

22 (Received and so marked)

23 DIRECT EXAMINATION

24 BY MR. STRAUS:

25 Q With respect to the report of Referee Diamond,

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did you make a motion to confirm it?

A Yes.

The receiver made a motion to confirm the report to the extent that it reported that Mr. Sassower had committed sixty-three separate counts of criminal contempt.

Q I show you a document which is designated order to show cause dated May 3rd, 1985, and, ask you if this is a copy of the order to show casue by which you moved to confirm?

A Yes, it is.

MR. STRAUS: I offer this in evidence as Exhibit 35.

MR. SASSOWER: Same comment.

No objection subject to verification.

THE REFEREE: It's all the same.

(Received and so marked)

Q Did Mr. Sassower submit papers in opposition to your motion?

A Yes, he did.

Q I show you a document prepared, apparently, and signed by Mr. Sassower dated June 3rd, 1985, and ask you if this was submitted by him as a response?

A Yes, it is.

MR. STRAUS: I offer this in evidence as

Exhibit 36.

MR. SASSOWER: Can I just ask one question of you, Mr. Straus?

Are these documents that you are producing, since I don't have the files here, are these pruned documents, or are you submitting all the papers that were used on the motion?

I really don't know at this point, and I'm trying to find out.

MR. STRAUS: I'm not sure what you are referring to.

These are copies, as the witness testified to, these are copies of the documents which were described by the witness as the papers that were submitted to a Judge for decision.

That's what they are.

MR. SASSOWER: It's going to be a complete set that was submitted.

MR. STRAUS: I'm only indicating that these are papers that were submitted.

I'm not aware of any other papers.

MR. SASSOWER: Okay, fine.

Ask the witness that, if you don't mind, whether it's a complete set of papers.

1
2 THE REFEREE: He testified that these
3 were the papers in opposition.

4 He didn't make any exception.

5 I assume that's all the papers that he
6 came across.

7 Is that right, sir?

8 THE WITNESS: That's all I came across.

9 MR. SASSOWER: That's all, all you came
10 across?

11 MR. STRAUS: He can't testify to anything
12 beyond that.

13 MR. SASSOWER: The best way is to subpoena
14 the County Clerk's file, because my recollection
15 is that there are many more papers than this.

16 THE REFEREE: You don't have your records
17 here.

18 MR. SASSOWER: That's why I'm asking.

19 THE REFEREE: All right. Tuesday, you will
20 be in a better position to answer it.

21 It will be received as Petitioner's Exhib-
22 it 36.

23 (Received and so marked)

24 (Whereupon an off-the-record discussion
25 ensued.)

DIRECT EXAMINATION

BY MR. STRAUS:

Q With respect to your motion to confirm the Referee's report, was that motion denied?

A Yes, it was.

Q And who decided the motion?

A I believe it was Judge Martin Evans.

Q I show you a copy of a two page-document which is dated 11-15-85, and ask you if that is a copy of the decision rendered by Judge Evans?

A Yes, it is.

MR. SASSOWER: Decision and order.

MR. STRAUS: Decision and order.

Q Before I offer this in evidence, let me ask you this, in the top of the document it says "Bruce McM. Wright."

Was it Judge Wright who issued this order and decision?

A No. I believe it was Judge Evans, for a number of reasons.

Q Have you seen Judge Evan's signature on prior occasions?

A Yes.

MR. SASSOWER: I'll concede that's

Judge Evans signature very well.

MR. STRAUS: This is offered in evidence as Exhibit 37.

THE REFEREE: So received.

(Received and so marked)

MR. SASSOWER: What's the date of the order?

MR. STRAUS: The order is dated November 15, 1985.

MR. SASSOWER: I think your Honor should know what the decision and order is.

THE REFEREE: It's in evidence. I'm going to read it.

MR. SASSOWER: Well, you heard about sixty-six counts of contempt.

Let's be fair about it.

Judge Evans did not impose any penalties on me whatsoever. Okay?

THE REFEREE: That's what the document will disclose.

MR. SASSOWER: Right. The trouble is, your Honor, you are a human being like everybody else, and you hear sixty-six counts of contempt.

Boom, boom, boom.

The Prosecutor has to be fair.

THE REFEREE: I'll go through each and every document and each and every page of every document.

MR. SASSOWER: Do I state that correctly, Mr. Strauss, that he did not impose any penalties whatsoever?

MR. STRAUS: Mr. Sassower, the order holding you in contempt is in evidence.

I'm sure the Judge will read it.

In fact, it does confirm the sixty-six counts.

THE WITNESS: Sixty-three.

MR. STRAUS: Sixty-three out of the sixty-four counts and to that there is an adjudication.

If you want to argue about penalties --

MR. SASSOWER: Do you want --

MR. STRAUS: I'm not arguing with you.

MR. SASSOWER: Do you want to amend the complaint to include this criminal contempt?

Would you like to? I consent to it.

MR. STRAUS: I haven't made any application.

MR. SASSOWER: Make your application. I

1
2 consent. You can amend the complaint to
3 include another adjudication of contempt.

4 What's wrong with that?

5 MR. STRAUS: I don't know.

6 If you have -- if that's your application, fine,
7 I'll move to amend the complaint to conform
8 the proof to the fact that Mr. Sassower was
9 convicted of an additional count of criminal
10 contempt by Judge Evans as is reflected in this
11 order.

12 MR. SASSOWER: Fine.

13 MR. STRAUS: If that's what he wishes,
14 I'm certainly going to accomodate him.

15 MR. SASSOWER: Let's get it all in on one
16 shot.

17 MR. STRAUS: This will be a fourth criminal
18 contempt conviction.

19 MR. SASSOWER: Right.

20 MR. STRAUS: May the record so reflect,
21 your Honor.

22 THE REFEREE: It will so reflect.

23 MR. SASSOWER: Okay.

24 DIRECT EXAMINATION

25 BY MR. STRAUS:

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Q Just a few more questions, Mr. Schneider.

You indicated that you have been a practicing attorney for about eight years, is that correct?

A Almost 10 years now.

Q And, you specialize in litigation.

A That's correct.

Q I assume that during that time as a litigation practitioner, you have dealt with many attorneys as adversaries.

A That's fair to say.

Q And, I assume that some of these contests were heated contests.

A That's also fair to say.

Q In your experience as a practitioner, did you have any problems with Mr. Sassower which were unique to your dealings with this attorney?

A Yes, I did.

MR. SASSOWER: Objection, your Honor.

THE REFEREE: Sustained.

Q Mr. Schneider, in your dealings with Mr. Sassower, were there any particular problems which arose pertaining to the Puccini litigation and to the shareholders of Puccini?

MR. SASSOWER: Objection.

1
2 A Yes, there were.

3 THE REFEREE: Overruled.

4 Q What were they?

5 MR. SASSOWER: Oh, Judge, please.

6 A The manner in which Mr. Sassower litigated the
7 proceedings.

8 THE REFEREE: Is this included in the
9 charges?

10 MR. STRAUS: Yes, this is, most definitely.
11 We're dealing with particularly the pattern
12 of conduct.

13 THE REFEREE: All right.

14 A Mr. Sassower litigated in such a manner as to
15 harass his adversaries continuously.

16 For example, Mr. Sassower repeatedly served
17 motion papers so that they would be received after the
18 return date in order to preclude his adversaries, including
19 my client, from responding so that, in fact, this happened
20 just yesterday.

21 I received a cross-motion to a motion that had
22 been submitted two days ago and this requires the additional
23 work of contacting chambers and requesting permission to
24 file a response to the late papers served by Mr. Sassower.

25 Mr. Sassower on occasions, serves his papers and

1
2 refers to exhibits which are not included in the papers
3 that are served, so that we have no way of comprehending
4 what it is he's referring to.

5 MR. SASSOWER: I'm sorry. I don't know
6 what he's referring to.

7 THE REFEREE: You'll have an opportunity
8 to cross-examine him.

9 Go ahead.

10 A In addition, Mr. Sassower continually makes re-
11 petitive motions after repetitive motions.

12 As an example of that, Mr. Sassower has made at
13 least fifteen separate motions to remove my client in
14 his capacity as receiver on the ground that he has committed
15 fraud.

16 What he does is not refer to each motion as a
17 motion to re-argue or to renew but he makes a new motion
18 each time.

19 In addition, Mr. Sassower, in his papers, in
20 open court proceedings and in letters that he writes to
21 various judges, continually accuses the litigants and
22 the judges of being crooks, being criminals with law
23 degrees.

24 He makes defamatory and scandalous charges
25 on a daily basis.

1
2 THE REFEREE: Were the letters addressed
3 to you or your law firm or are they papers in
4 connection with a proceeding involving your law
5 firm?

6 THE WITNESS: They are made both in motion
7 papers and in letters addressed to the various
8 litigants and to various judges who have nothing
9 to do with the litigation.

10 He writes to the district attorney making
11 these same outlandish charges.

12 He writes to various administrative judges
13 making the same outlandish charges over and over
14 again.

15 MR. SASSOWER: You want to amend your
16 complaint to include that, Mr. Straus?

17 I consent to it.

18 MR. STRAUS: Mr. Sassower, let him complete
19 his answer.

20 MR. SASSOWER: Your Honor --

21 THE REFEREE: Sir, either you make an ob-
22 jection --

23 MR. SASSOWER: Judge, this is like a fish
24 market, the way he's going on.

25 If he wants, Mr. Straus --

1
2 THE REFEREE: Mr. Straus knows what
3 he has to do, and what he can do and what he
4 will do.

5 MR. SASSOWER: Judge, if he wants to in-
6 clude a charge that I called them criminals
7 with law degrees and it's outlandish and it's
8 without foundation or anything else he wants to
9 do, fine, make it a charge. Fish or cut bait.
10 That's it.

11 If it's a charge, I consent to it.

12 If it's not a charge, don't bring it in.

13 That's all I'm saying.

14 MR. STRAUS: The evidence is in support
15 of a charge which is already included in the
16 petition and has to do with Mr. Sassower's
17 intent, his malice, his intent to harrass, his
18 attempt to threaten, and there's no question that
19 it's included within the parameters of Charge 4.

20 THE REFEREE: Go ahead.

21 Objection overruled.

22 MR. SASSOWER: Okay.

23 A What Mr. Sassower is doing is attempting to
24 litigate his adversaries to death as recognized by Judge
25 Conner in a decision that is in evidence, your Honor.

1
2 THE REFEREE: That's your opinion as a
3 member of a law firm that has had dealings with
4 Mr. Sassower.

5 Go ahead.

6 THE WITNESS: I'll try to confine my answer,
7 your Honor. I'm sorry.

8 A As I said, Mr. Sassower is attempting to use
9 the litigation process to litigate his adversaries into
10 submission so that they will eventually give up and accede
11 to his unjustified demands.

12 What, in fact, he has accomplished that in part
13 in this case, in that two of the Puccini shareholders
14 cannot afford to pay lawyers to defend them anymore and
15 have dropped out.

16 Mr. Sassower has bankrupted the Puccini fund
17 and now there are no funds to defend Mr. Sassower's on-
18 slaughter.

19 In addition, what he accomplishes by filing
20 these frivolous actions when he's enjoined from doing so
21 is every time a law firm gets sued, we are required by
22 our malpractice policy to file a claim with the insurance
23 company and as a result the malpractice insurance rates
24 for certain professional firms have risen sharply in
25 this case and it is an expense that there is no way to

1
2 this very day, continues to do this, notwithstanding
3 that for over three years the courts have warned him,
4 have fined him, have imposed extraordinary costs, have
5 imposed attorney's fees, have fined him for civil contempt,
6 have held him in criminal contempt on four occasions,
7 have incarcerated him on two occasions, and nothing stops
8 him.

9 The system is utterly impotent to deal with
10 this lawless man and he's wreaked unbelievable havoc on the
11 parties in this case and on the judicial system.

12 Q Thank you, very much, Mr. Schneider.

13 MR. STRAUS: I have no further questions.

14 CROSS EXAMINATION

15 BY MR. SASSOWER:

16 Q Mr. Schneider, did you enter into this case
17 personally, on or about February 1, 1982? Yes or no.

18 A My firm was retained as attorneys for the receiv-
19 er at the beginning of February, 1982.

20 Q Fine. And who were you retained by?

21 A Lee Feltman, the court-appointed receiver for
22 Puccini.

23 Q At the time Lee Feltman appointed your firm,
24 Lee Feltman's firm, right?

25 A He's a partner in the firm.

Q At the time Lee Feltman appointed your attorney, was there a rule -- pardon me -- in the Appellate Division First Judicial Department -- pardon me, sir -- known as 22NYCRR 640.24?

Yes or no.

A I don't know to what you are referring Mr. Sassower.

Q Is there a rule in the Appellate Division, First Department called 660.24?

A That different from the 640 you just asked me about?

Q Six sixty. I said six-sixty, I think. Yes or no.

A I'm not familiar with the numbering of the rules of the Appellate Division.

Q How many times in judicial papers was your firm or you told about 660.24?

MR. STRAUS: Objection. I don't know what the relevancy of the --

Q Twenty times? Fifty times?

THE REFEREE: The witness stated that he doesn't know what 660 --

MR. SASSOWER: Six-sixty point twenty-four states how attorneys, accountants et cetera, are

to be appointed.

Q Are you familiar with that section? Yes or no.

A I don't understand the question.

THE REFEREE: He doesn't understand the question.

Q Did you ever read 660.24 subdivision F, yes or no?

A I don't know the answer to that.

Q Did you ever read my papers which recited in haec verba 660.24 subdivision F?

THE REFEREE: Is it 24, 44?

MR. SASSOWER: 660.24 subdivision F.

THE REFEREE: What body of law?

MR. SASSOWER: Appellate Division, First Department rules, 22 NYCRR.

A I have read a number of your papers which referred to some rule of the Appellate Division. I don't know whether it was 640, 660, what subdivision it was.

Q Are you familiar with the rule of the Appellate Division about compensation or no compensation for persons who have not been appointed pursuant to that rule? Yes or no.

A I'm not thoroughly familiar with it, no.

Q You are not familiar with it. Are you familiar

1
2 with any rules of the Appellate Division, First Department
3 which states in sum and substance that any attorney, ac-
4 countant, appraiser or any such person in that category,
5 who is not appointed in conformity with 660.24 is not en-
6 titled to anything in compensation? Yes or no.

7 MR. STRAUS: Objection, your Honor.

8 What is the materiality or relevance to this
9 proceeding?

10 I would ask Mr. Sassower to indicate to
11 you that there is some material, relevant purpose
12 for this question.

13 We're not supposed to be retrying a civil
14 case which is not involved here.

15 I don't know why we're discussing the
16 question of appointments.

17 MR. SASSOWER: Mr. Schneider knows what the
18 rule is.

19 It's been cited to him hundred times.

20 Q Do you know of any rule garding the appointment
21 of a firm of attorneys by a receiver in the Appellate
22 Division, First Department?

23 MR. STRAUS: Objection.

24 THE REFEREE: Overruled.

25 A There is some rule to which you have referred in

1
2 the past in an effort to prevent my firm from getting
3 paid.

4 Q Okay. Do you know the rule --

5 THE REFEREE: Wait. You asked him --

6 MR. STRAUS: I'd ask that he be permitted
7 to respond.

8 You cut him off in the middle of an answer.

9 MR. SASSOWER: Your Honor --

10 THE REFEREE: Mr. Sassower, let him answer.

11 MR. SASSOWER: I want to know if he knows
12 the rule, sir.

13 THE WITNESS: I can't answer it yes or no.

14 MR. SASSOWER: Okay, fine.

15 THE WITNESS: May I continue my response?

16 MR. SASSOWER: That's all right.

17 Q Now, Puccini Clothes Inc., was involuntarily
18 dissolved on June 4, 1980, is that correct?

19 A Yes.

20 Q Are you familiar offhand with what the business
21 corporation law says as to when an accounting and distribut-
22 ion should take place?

23 MR. STRAUS: Objection.

24 Q Yes or no.

25 MR. STRAUS: Objection.

THE REFEREE: Overruled.

A Is this upon appointment of a receiver under Article 12 of the Business Corporation Law or some other provision, Mr. Sassower?

Q Article 12 of the Business Corporation Law.

A Yes, I have some familiarity with that section.

Q Okay.

When, in the normal course of events an accounting is supposed to be had, and distribution generally?

MR. SASSOWER: We'll give his Honor the section.

A My recollection is that the Business Corporation law provides that within sometime which is -- which approximates one year after the appointment of a receiver that the receiver shall either make application for an extension of time to wind up the estate or shall make application to settle a final account of the estate in a final position to be closed.

Q You were appointed on February 1, 1982, is that correct?

A My client was appointed as receiver.

Q And every year you must file a verified report with the Attorney-General, is that correct?

MR. STRAUS: Objection.

1
2 A That's correct.

3 MR. STRAUS: What is the relevance?

4 MR. SASSOWER: I'll show you in a moment.

5 THE REFEREE: All right.

6 Q Has an accounting for Puccini ever been filed?
7 Excuse me.

8 A May I answer your question?

9 Q Up to this date, and if so, when?

10 A In accordance with the Business Corporation Law,
11 Article 12, and you will see a verified statement under
12 I think it's section 1207 of the business corporation law,
13 has been filed with the Attorney-General.

14 Q I didn't ask you about the verified statement.
15 I asked you about an accounting.

16 Has the receiver accounted for Puccini? Yes or no.

17 A There has not been a final accounting.

18 Q Any accounting.

19 THE REFEREE: What's the relevancy?

20 MR. SASSOWER: Because I'm telling you
21 they are criminals.

22 MR. STRAUS: That's why I'm going to
23 object.

24 THE REFEREE: Mr. Sassower, we're not going
25 to get anywhere if you are going to keep raising

your voice.

MR. SASSOWER: I apologize to your Honor.

THE REFEREE: And making remarks about other people.

MR. SASSOWER: I apologize, your Honor.

Q Has --

THE REFEREE: Objection sustained.

MR. SASSOWER: Objection sustained?

THE REFEREE: Objection sustained.

MR. SASSOWER: On what grounds.

THE REFEREE: Irrelevant. Next question, please.

Next question, sir.

Q Have you filed, not a verified statement with the Attorney-General, have you filed an accounting? Yes or no.

MR. STRAUS: Objection.

THE REFEREE: Sustained.

Q Mr. Schneider --

THE REFEREE: Lower your voice, please.

Q -- are you contending that all this litigation was caused by Sassower or possibly it was caused by Feltman, Karesh and Major?

A Aside from the dissolution proceeding --

1
2 Q Just answer the question.

3 MR. STRAUS: He's attempting to.

4 A I can't answer the question yes or no, Mr. Sassow-
5 er.

6 MR. STRAUS: Judge Potoker, I think the
7 witness is entitled to answer in his own words.

8 Q If you can't answer the question my way, just tell
9 me that.

10 MR. STRAUS: That's not a rule, sir.

11 THE REFEREE: I'll decide whether or not it
12 calls for a yes or no answer or he can continue.

13 MR. SASSOWER: Well then, I'll ask it yes
14 or no.

15 THE REFEREE: Go ahead then, make it
16 specific.

17 Q I am not speaking --

18 THE REFEREE: That's not a question, sir.

19 MR. SASSOWER: Wait a second.

20 Q I'm not speaking about a verified statement of
21 the receiver.

22 I'm speaking about an accounting.

23 THE REFEREE: I've already sustained the
24 objection.

25 MR. SASSOWER: Judge, I want to know if

there is an accounting filed after six years.

THE REFEREE: Sir, I've sustained the objection.

MR. SASSOWER: Why? This is what the litigation is about.

THE REFEREE: Sustained.

MR. SASSOWER: Your Honor --

THE REFEREE: Sustained.

MR. SASSOWER: Your Honor, you are telling me, your Honor --

THE REFEREE: Sir --

MR. SASSOWER: Let the record be clear.

THE REFEREE: Just take your exception, period.

MR. SASSOWER: I make my exceptions, I've been accused of making various motions.

THE REFEREE: Sir, I know what you have been accused of.

MR. SASSOWER: Wait a minute, your Honor has made up his mind and you have made your mind up in a conference before I even spoke.

MR. STRAUS: You have no business saying that, sir.

THE REFEREE: There's no ruling that's been

made by this Court, sir.

You have no right whatsoever to make a statement of that kind, and don't you repeat it in front of me that I have made my mind up.

I'm a Special Referee and I'll not violate that oath which I took.

MR. SASSOWER: Well, the record says -- your Honor, not to belabor the point --

THE REFEREE: Don't tell me what the record states.

I know what the record states.

The record will speak for itself.

Cross-examine the witness; on questions where I sustained an objection, that's the end of it.

CROSS EXAMINATION

BY MR. SASSOWER:

Q Mr. Schneider, have any of these so-called motions that you call frivolous, vexatious or whatever else you called it were for the purpose of demanding that the receiver account, yes or no.

A Over and over again you made motions repeatedly for that relief and they were all denied.

Q But the receiver hasn't accounted.

MR. STRAUS: Objection.

THE REFEREE: Sustained.

MR. SASSOWER: Okay.

Q Now, let's talk about the verified statement that you are supposed to file with the Attorney-General, --

MR. STRAUS: Objection.

Q -- every year.

THE REFEREE: Sustained.

MR. SASSOWER: On what grounds, your Honor?

THE REFEREE: Irrelevant.

MR. SASSOWER: He doesn't file correct statements. He files false statements and everything else and I make motions, so what's the fault? I have proven larceny here, your Honor.

THE REFEREE: He just told you about the demands for an accounting.

He said you have made repeated and repeated demands; they were all denied.

MR. SASSOWER: Every year I make them.

THE REFEREE: They were denied. That's one of the charges.

MR. SASSOWER: I'm not repeating.

THE REFEREE: You are repeating it.

MR. SASSOWER: I'm not repeating it.

THE REFEREE: That's this witness' opinion.

MR. SASSOWER: That's his opinion. I want
to cross-examine that opinion.

THE REFEREE: Go ahead.

MR. SASSOWER: That's what I'm doing.

CROSS EXAMINATION

BY MR. SASSOWER:

Q On your verified statement to the Attorney-
General, did you list, at any time prior to this year --

MR. SASSOWER: Withdrawn.

Q Are you familiar with the order of June 4, 1980?

A Was that the order of Judge Sinclair dissolving
Puccini?

Q Right.

A Yes, I am.

Q And, does it prohibit everybody and anybody except
the court-appointed receiver from taking or disposing of
Puccini's assets except with the consent of the receiver?

Yes or no.

MR. STRAUS: Excuse me. Is that an exhibit
which is in evidence?

MR. SASSOWER: No.

MR. STRAUS: Is the order of dissolution
in evidence?

1
2 MR. SASSOWER: No.

3 MR. STRAUS: Is there a document that
4 you are referring to that's in evidence?

5 MR. SASSOWER: It's an order of June 4.
6 That's all I can tell you.

7 THE REFEREE: June 4.

8 MR. SASSOWER: 1980.

9 MR. STRAUS: I think that's an order of
10 Judge Schwartz, which is in June of 1980.

11 THE WITNESS: I don't recall that order
12 being in.

13 THE REFEREE: That's September 11, 1980.

14 MR. SASSOWER: Judge, let me apologize
15 and start in a chronological way minding, your
16 Honor, that I don't have the files here.

17 THE REFEREE: Go ahead. Relax and ask
18 your questions.

19 MR. SASSOWER: And bear with me. I'll put
20 it all together.

21 THE REFEREE: Go ahead.

22 CROSS EXAMINATION

23 BY MR. SASSOWER:

24 Q Mr.--Mr. Schneider, June 4, 1980, Puccini was
25 involuntarily dissolved, is that correct?

1
2 A I previously answered that question "yes."

3 Q Would I say, using a broad brush, since I
4 don't have an order here that, as a matter of law, and
5 by specific provisions in the order of dissolution, nobody
6 was allowed to dissipate, take Puccini's assets without
7 the receiver's consent; is that true?

8 A I'm not going to answer as a matter of law.
9 I don't know what the law is.

10 THE REFEREE: Are you familiar with Judge
11 Sinclair's order?

12 THE WITNESS: There is a provision in
13 Judge Sinclair's order which does enjoin
14 certain dispositions of Puccini's funds except
15 by a court-appointed receiver.

16 Q And, you are also familiar with Judge Greenfield's
17 order which was rendered about seven months later on
18 January 4 or 5, 1981, which said nobody can distribute
19 Puccini's assets without Puccini's consent?

20 Are you familiar with that order?

21 A I've never seen that order.

22 Q You never saw that order?

23 A That's correct.

24 Q You came in around February 1, 1982, is that
25 correct?

1
2 A That's correct.

3 Q When you came in --

4 THE REFEREE: '84 or '83?

5 THE WITNESS: '80.

6 MR. SASSOWER: '82. I'm trying to do it
7 chronologically, your Honor, so you'll get a
8 picture.

9 THE REFEREE: That's following Mr. Felt-
10 man's appointment as receiver, he, in turn,
11 retained your law firm.

12 THE WITNESS: Correct.

13 Q When you came in, you got all the documents of
14 the prior litigation, right?

15 A We did review documents of prior litigation.

16 Q And, the only real activity -- was there much
17 activity prior to your coming in?

18 There was a motion for some judgment.

19 THE REFEREE: Between June 4, '80, the
20 time of the dissolution and February of '82.

21 MR. SASSOWER: Right.

22 A Was --

23 Q What activity was there?

24 THE REFEREE: Are you familiar with any
25 legal activity between the date of the dissolution

1
2 and the date when your firm was retained?

3 THE WITNESS: Yes.

4 Q Let's stop at this point.

5 THE REFEEEEE: He says "Yes."

6 Next question.

7 Q When you came in on February 1, 1982, do you
8 recall when was the first time you spoke to me?

9 A I have no independent recollection of it.

10 I imagine that --

11 Let me take that back.

12 We went to the Appellate Division within two weeks
13 of our appointment with you where you were requesting a
14 stay of the order which disqualified you.

15 I think that must have been the first time I met
16 you.

17 Q In any event, shortly after you came into the
18 picture, did I tell you that I suspected very greatly
19 that there were assets taken from Puccini after June 4,
20 1980? Yes or no.

21 A You said that in affidavits. I don't recall
22 your telling me that directly.

23 Q Okay. I said it in affidavits.

24 A Over and over again.

25 Q Over and over again, right.

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A Right.

Q When you became a receiver on February 1, 19 --

MR. STRAUS: I don't think he became a receiver.

Q -- I mean the attorney for the receiver, you took possession of the books, records, schedules and everything.

A Whatever we were given that we were aware of.

Q In 1982, you saw in my papers and in Mr. Raffe's papers countless that there were assets that were taken from Puccini, larceny of judicial trust funds. That's what we said.

A That's correct.

Q I am asking you, sir, did you in 1982, ever confirm that or disaffirm that from the books and records? Yes or no.

A What we did, Mr. Sassower --

MR. STRAUS: Judge Potoker, I would ask that the witness be permitted to answer.

He's indicated that he's attempting to answer the question.

THE REFEREE: Go ahead.

A -- as a result of the allegations of wrongdoing that you and Mr. Raffe made, the receiver made a motion

1
2 to have the court appoint accountants to review Puccini's
3 books and records, a motion which you opposed.

4 Q Let's go back a little bit. Let's go back a
5 little bit.

6 Before we get to the appointment of the account-
7 ant, there was --

8 By the way, Mr. Schneider, when you come next
9 time, could you bring an unmarked copy of your record on
10 appeal that you took, okay, where, from Judge Stecher's
11 order and Judge Sinclair's --

12 MR. STAAUS: I would suggest that if you
13 want the witness bring something that you make
14 application to Judge Potoker to have him direct
15 that he do something.

16 I don't know that the witness has any of
17 those things.

18 THE REFEREE: Do you have any of those records?

19 THE WITNESS: I don't know. There have been
20 tens of appeals in the case.

21 Q You made one appeal. You got extra copies.

22 THE REFEREE: Between now and Tuesday, look
23 through your files and see what's available.

24 MR. STPAUS: I think Mr. Schneider was
25 hoping not to be back.

MR. SASSOWER: He will.

THE REFEREE: You want him back?

MR. SASSOWER: I said he'll be back a few more times.

THE REFEREE: A few more times?

MR. SASSOWER: A few more times.

CROSS EXAMINATION

BY MR. SASSOWER:

Q Mr. Schneider, there was an action pending which is this one 6792, pending Barr against Raffe.

A That's correct.

Q And, there was a third-party action, Raffe against Dann, Sorrentino and Puccini, is that correct?

A That's correct.

Q And, there was no doubt that as a result of Judge Stecher's decision --

A He's issued numerous decisions.

Q -- October 9, 1982; you appealed it.

A Mr. Sassower, I don't know which decision.

If you could identify it and tell me what the subject matter is --

Q Judge Stecher held that whatever Raffe has to pay the Plaintiffs, Barr and Citibank, he's entitled to full indemnification from Puccini, is that correct?

1
2 A There was a decision in the case which held
3 that -- I don't know if it was Judge Stecher or not.

4 Q So, we had an action where there was Kreindler
5 and Relkin suing Raffe and Raffe sued a third-party, Dann,
6 Sorrentino and Puccini, right?

7 A Until you discontinued the action.

8 Q Let's go chronologically, don't mix anybody up.
9 When Kreindler and Relkin made their motion for
10 summary judgment, do you remember that?

11 A Yes.

12 Q And, do you remember Raffe interposing as an
13 answer or as an opposing affidavit as a defense that
14 there's been larceny of Puccini's assets?

15 Do you remember that allegation?

16 A It was made tens of times. I don't know in
17 what particular --

18 Q That's why I want you to bring your book in.

19 A I don't know in what piece of paper he made that.

20 Q There was no doubt, Mr. Schneider -- and the
21 allegations from Kreindler and Relkin came in the form
22 of three affidavits.

23 One by Citibank saying there was absolutely --
24 "We're crazy" -- there's been no --

25 MR. STRAUS: Is this a question?

1
2 MR. SASSOWER: It's a question.

3 MR. STRAUS: It's not in the form of a
4 question.

5 It's in the form of a statement.

6 THE REFEREE: He's attempting to refresh
7 the witness' recollection.

8 Q Do you remember when Raffé or Sassower put in
9 an opposition to the motion for summary judgment?

10 A You were disqualified, you couldn't put it in.

11 Q Whoever put it in.

12 A Okay.

13 Q When Raffé put into his affidavit that the evi-
14 dence indicates -- he didn't have the hard evidence --
15 you had the books -- that there was larceny of judicial
16 trust funds, and he said summary judgment should be denied
17 to the plaintiff, do you remember him saying that?

18 A He said it many times.

19 I don't know if he said it on any given occasion
20 unless you show me the book.

21 Q Let's leave this.

22 MR. SASSOWER: Your Honor, what I am
23 attempting to do --

24 THE REFEREE: Don't tell me what you are
25 attempting to do.

1
2 You're leaving it. Next question.

3 MR. SASSOWER: I want to do it in a
4 chronological way.

5 Maybe we're better off adjourning this
6 part, whatever you want, because I'd rather
7 go in a chronological manner so that your Honor
8 gets a good grasp of the case.

9 Or, I can continue.

10 THE REFEREE: Continue. It's only 3:10.

11 MR. SASSOWER: What time?

12 THE REFEREE: Ten after three, sir,
13 You want to be over at the Appellate Division at
14 4:30.

15 Q Mr. Schneider, Mr. Schneider, could I see your
16 correspondence with Mr. Straus?

17 MR. STRAUS: I think I can provide it.

18 MR. SASSOWER: Just put it down here and
19 I'll ask questions in the meantime, so I don't
20 have to --

21 MR. STRAUS: If you give us a moment.
22 I'd like the record to reflect when we do it
23 because we did, in fact, set aside Mr. Schneid-
24 ers's correspondence with me.

25 THE REFEREE: You have asked for the records.

1
2 MR. SASSOWER: I can go on in the mean-
3 time.

4 I don't have to wait for this.

5 THE REFEREE: All right, go ahead.

6 Q Mr. Schneider, --

7 THE REFEREE: I want Mr. Straus to pay
8 attention.

9 MR. STRAUS: I'm listening with one ear.

10 A Perhaps I could be helpful.

11 I think I see the letters towards -- right near
12 this gentleman.

13 MR. STRAUS: Here it is.

14 These are copies of the correspondence.
15 These are copies.

16 THE REFEREE: That would be Respondent's
17 Exhibit A collectively for identification.

18 MR. STRAUS: This is a group of letters
19 that were sent to me at various times from Mr.
20 Schneider.

21 MR. SASSOWER: That would be the complete
22 correspondence.

23 MR. STRAUS: I believe it is.

24 MR. SASSOWER: I don't think it has to be
25 marked, but if you want to mark it, I'll be happy.

MR. STRAUS: There are other letters.

I think we have another copy of that set and
if I find any others, I'll provide them.

MR. SASSOWER: I think --

Q Mr. Schneider, I'll jump around, okay?

You told his Honor --

MR. SASSOWER: Withdrawn.

Q How many criminal contempt proceedings did
you or Kreindler and Relkin start against me all together,
would you say?

Do you know, approximately?

A I'm trying to give you an exact number.

Q We don't need an exact figure.

MR. STRAUS: I think he's entitled to
answer the question.

THE REFEREE: If he knows the exact figure,
let him give us the exact figure.

A There have been five.

Did you ask me about civil contempt or criminal
contempt?

Q Any kind?

A There have been five adjudications of contempt.

THE REFEREE: How many --

THE WITNESS: I'm talking out loud.

THE REFEREE: Four criminal and one civil.

THE WITNESS: Four criminal and one civil.

There is presently pending at least two contempt proceedings and maybe a third.

Strike that.

There are at least three criminal contempt.

MR. SASSOWER: It's going to take too much time.

MR. STRAUS: Judge Potoker, --

THE REFEREE: He said there were four criminal and one civil adjudication.

There are three criminal contempts pending, and what else?

THE WITNESS: There may have been a couple of others.

There was one cross-motion for contempt that was denied as moot recently by Judge Lester Evans.

THE REFEREE: Who made that motion?

THE WITNESS: That was made by the receiver.

THE REFEREE: And that was denied.

THE WITNESS: That was denied as moot.

Q It was.

A That was the language of the decision.

1
2 THE WITNESS: The Judge's name -- Lester
3 Evans.

4 Q Mr. Schneider, when I want exactitude I'll ask
5 for it.

6 MR. STRAUS: Judge Potoker, I think that
7 a witness that strives to give exactitude should
8 not be condemned for doing that.

9 MR. SASSOWER: Okay. Let's see how exact
10 he's been.

11 MR. STRAUS: Maybe Mr. Sassower wants less
12 than exactitude.

13 THE REFEREE: You're starting over again.
14 There are certain ground rules that you'll have
15 to observe.

16 You are going beyond your boundaries.

17 Don't engage in any colloquy with Mr.
18 Strauss.

19 Ask your questions.

20 Q Mr. Schneider, was your first contempt proceeding
21 that you commenced against both me and Mr. Raffe? Yes or no.

22 A I believe that's correct. I know it was against
23 you and I think it was also against Mr. Raffe.

24 Q And it was definitely a criminal contempt pro-
25 ceeding.

1
2 A I don't think I specified whether it was criminal
3 or civil contempt. I don't recall.

4 That dates back to October of 1982.

5 It did result in a civil contempt adjudication.

6 Q Wait a second. Let's go one step at a time.

7 That started back in '82 and finally in December
8 of '84, Judge Martin Evans -- you submitted an order holding
9 me in criminal contempt, right?

10 Did you submit an order holding me in criminal
11 contempt?

12 A On which motion?

13 Q On Judge Martin Evans' motion.

14 MR. STRAUS: That Exhibit 37?

15 MR. SASSOWER: No.

16 THE REFEREE: Is that one of the four
17 criminal contempts?

18 MR. SASSOWER: They're all criminal contempts.

19 THE REFEREE: They are. He said there was --

20 MR. SASSOWER: He said, but he's wrong.

21 THE REFEREE: Sir, he's the witness.

22 Q Martin Evans --

23 A What's the question?

24 Q When you started the Martin Evans' proceeding
25 for contempt, here was a massive submission over approximately

1
2 a two year period, is that correct?

3 MR. STRAUS: I have to object on this
4 ground.

5 He said there were two Martin Evans.

6 THE REFEREE: Submission of what?

7 MR. SASSOWER: Papers.

8 THE REFEREE: What kind of papers?

9 MR. SASSOWER: Motion papers, affidavits,
10 exhibits, documents and everything.

11 Q Am I correct, Mr. --

12 MR. STRAUS: Judge Potoker, may I interject?
13 I have an objection because I've heard the
14 witness testify on several occasions that there
15 were two proceedings brought before Judge Evans.

16 Unless Mr. Sassower --

17 MR. SASSOWER: '82 to '84.

18 THE WITNESS: Now I understand.

19 Q The first one, the first proceeding.

20 MR. STRAUS: Okay, now that the witness
21 is apprised, I have no problem.

22 Q The first proceeding which you never even
23 mentioned on direct examination --

24 THE REFEREE: Again, you are offering edi-
25 torial comment.

dismiss for lack of prosecution?

A I believe you did.

Q And, did I finally after nine months or eight months make a second motion to dismiss for lack of prosecution?

A I don't know if you made one or two motions.

Q But, in any event, after ten months, the Court granted my motion to dismiss your appeal unless you perfected it for a particular term, is that correct?

A Yes.

Q And you failed to perfect it, yes or no?

A What we did, I sent you a stipulation agreeing to withdraw the appeal stating we had no intention --

Q Did you perfect it?

THE REFEREE: He said he withdrew it, so why perfect it?

MR. SASSOWER: He withdrew it under the gun.

MR. STRAUS: I object. Mr. Sassower keeps trying to testify. His chance will come.

Q Are these motions to dismiss you, your appeals, either because on the grounds that the prosecution cannot appeal or on the grounds of neglect of prosecution?

Would you call that vexatious, harrasing motions?

1
2 Yes or no.

3 A I would consider the motion to dismiss on
4 the grounds that a prosecutor can't appeal a frivolous
5 motion because it was directly rebutted by case law, in
6 point.

7 With respect to the other portion of your quest-
8 ion, I don't say that a motion to dismiss for failure to
9 prosecute is frivolous; it isn't.

10 Q Mr. Schneider, when you come next time, bring your
11 papers and you show me where you said in your papers at
12 any place, any authority.

13 MR. STRAUS: Is that a question?

14 Q To show, to show me how a prosecutor can appeal
15 a dismissal when it's on the factual merits.

16 A The Appellate Division agreed with me.

17 THE REFEREE: He's telling you.

18 A The Appellate Division upheld my position.
19 (Whereupon at this point in the proceedings, a brief recess
20 ensued)

21 (R E C E S S)

22 THE REFEREE: Mr. Straus, Mr. Sassower
23 has requested that we adjourn earlier than 4:30
24 in view of the fact that the witness must return
25 on Tuesday, so, we'll let him go to the Appellate

1
2 Division.

3 MR. STRAUS: I would, in the future, ask --
4 Mr. Sassower was over in the Appellate Division
5 earlier this week and could have at that time --
6 but the problem is, I don't think --

7 I'd like to have the day as full as
8 possible on all future occasions because I
9 don't want the witness to have to come back day
10 after day to answer --

11 MR. SASSOWER: If Mr. Straus told me he
12 was bringing in Mr. Schneider --

13 MR. STRAUS: He's the complainant.

14 CROSS EXAMINATION

15 BY MR. SASSOWER:

16 Q Mr. Schneider, I want to take just isolated
17 subjects where I have some documentation.

18 Do you recognize this order, Justice Lester
19 Evans --

20 THE REFEREE: Has it been identified?

21 MR. SASSOWER: No.

22 THE REFEREE: Respondent's B for identifi-
23 cation.

24 A Yes, I am familiar with it.

25 Q That was a motion -- and you have no doubts about

1
2 the authenticity of that order?

3 A It's -- it's the one I just testified to before
4 the break.

5 Q Is it marked into evidence?

6 THE REFEREE: All you did -- we marked it
7 for identification.

8 (Received and so marked)

9 MR. STRAUS: Would you give it to me so I
10 can look at it?

11 MR. SASSOWER: Sure.

12 MR. SATRAUS: I have no objection.
13 I think it was the subject of previous testimony.

14 MR. SASSOWER: Okay, fine.

15 THE REFEREE: It will be received in evi-
16 dence as Respondent's Exhibit B.

17 (Received and so marked)

18 THE REFEREE: "A" was for identification.
19 That was a letter.

20 MR. STRAUS: This is a decision and order
21 of Judge --

22 THE REFEREE: Lester Evans. "A" was deemed
23 marked collectively.

24 MR. STRAUS: I think the Reporter is having
25 trouble and wants to make a record of everything

you say and he was about to mark it. Unless we get him an assistant, he's not going to be able to do both at the same time.

(Recieved and marked "B" in evidence)

Q Mr. Schneider, on that particular motion you really submitted a great deal of evidence or documents contending that I had violated Judge Sinclair's order, Judge Greenfield's order, Referee Diamond's order and God knows, what else and is this a copy of the notice of motion?

MR. STRAUS: I'll object on this point on the grounds of relevance.

There is no decision or no charge relating to a criminal contempt proceeding which was dismissed by another Judge.

It's not relevant to this proceeding, I believe, for Mr. Sassower to bring in motions outside those which he is charged with.

The fact that another motion by another Judge was dismissed is not relevant to the ones that were granted.

THE REFEREE: Judge Evans order is specific.

MR. SASSOWER: Will you hear me for a moment? Before you make a decision?

The evidence will show that within one day

1
2 or two days after Lester Evans dismissed the
3 charges for insufficiency of evidence, which,
4 according to all law, triggers double jeopardy,
5 within one day they served me with four more
6 motions for contempt.

7 Listen to this.

8 And when you come to Lester Evans --

9 THE REFEREE: For actions other than what
10 was before Judge Evans.

11 MR. SASSOWER: The same thing.

12 THE WITNESS: That's not true, Mr. Sassower.
13 I'm saying --

14 Do you want to say that under oath?

15 MR. SASSOWER: I'll show your Honor that
16 what they submitted to Judge Lester Evans was
17 a simultaneous submission to Martin Evans
18 who also vindicated me on that part and also
19 submitted it to Seymour Schwartz.

20 Now if you take Mr. Straus' argument and
21 extend it, these guys know nothing about double
22 jeopardy.

23 They submit many motions and just, just
24 by chance, one or two will catch.

25 THE REFEREE: What is your point?

1
2 MR. SASSOWER: The point is two things.
3 I'll point out to you, your Honor --

4 THE REFEREE: No, you have a witness being
5 cross-examined.

6 MR. SASSOWER: Let me make my point.

7 THE REFEREE: You have the cross-examination
8 of the witness.

9 MR. SASSOWER: Because even if I don't con-
10 vince your Honor, perhaps the Appellate Division
11 may disagree with your Honor, so, all I want to
12 do is --

13 THE REFEREE: Sir, I don't have any
14 Appellate Division here right now telling me
15 what I have to do.

16 MR. SASSOWER: I understand that.

17 THE REFEREE: Cross-examine the witness.
18 Do you have any more cross-examination of the
19 witness?

20 MR. SASSOWER: Okay. I'll cross-examine
21 you in the way his Honor desires.

22 CROSS EXAMINATION

23 BY MR. SASSOWER:

24 Q When you made your submission to Lester Evans,

25 MR. SASSOWER: Can you give me that for

a moment, please?

Q When you made your submission to Lester Evans, could you tell me --

MR. SASSOWER: May I have your Exhibit 10, 11, 12 and 13?

I don't need 13, just the schedules.

Q I show you Petitioner's Exhibit 10 and Petitioner's Exhibit 11, and I ask you --

THE REFEREE: That's Schedule 1 and 1A.

MR. STRAUS: Yes.

MR. SASSOWER: Yes, your Honor.

Q And I ask you which proceeding you told or you alleged to Judge Lester Evans that I performed which violated judicial orders?

MR. STRAUS: Objection.

Whatever the decisions of any other Judges on any other motions would have no bearing and relevance on the decisions which have actually been documented and received in evidence.

Those are criminal contempt proceedings or decisions which were made.

The fact -- whatever the facts of any other decision in which, I believe, in this case was declared moot or was denied as moot, has no

1
2 no relevance and no bearing on the ones that
3 he was found guilty of.

4 They can have no effect. If, in fact,
5 there was double jeopardy as a bar, Mr. Sassower
6 was free to raise that in proceedings before
7 the Appellate Division or Court of Appeals.

8 That would be a basis for setting aside
9 such convictions.

10 Since he hasn't done that and since the
11 convictions have been affirmed, he cannot attack
12 those convictions by bringing in evidence of a
13 criminal contempt conviction which was dismissed
14 by a different judge.

15 It would make no difference if, in fact,
16 it were true.

17 MR. SASSOWER: Would you hear me, first,
18 before you make a decision?

19 THE REFEREE: Yes.

20 MR. SASSOWER: I'm not bringing this in
21 for the purpose of Charge 1, 2 and 3.

22 Your Honor accepted Mr. Schneider's opinion
23 that certain lawsuits and certain motions and
24 certain whatever you want, violated court orders.

25 That was his opinion, and you received his

1
2 his opinion, and I am saying to your Honor that
3 Judge Lester Evans and I'll show you Martin Evans,
4 and I'll show you Judge Wright and I'll show you
5 a host of other judges who have disagreed with
6 Mr. Schneider's opinion.

7 MR. STRAUS: First of all, Mr. Schneider
8 didn't testify to that.

9 You are misstating the testimony.

10 Mr. Schneider was asked were there any on
11 that list that did not constitute violations.

12 We specifically did not ask him whether the
13 others did constitute a violation.

14 MR. SASSOWER: It says so on there.

15 THE REFEREE: We deleted it at your request.

16 MR. SASSOWER: Then you put it back on.

17 MR. STRAUS: It never was. He specifically
18 did not answer that question, and we did not ask
19 him that question.

20 All that we did, at your request, was to
21 ask him to take out those which, in his opinion,
22 did not constitute the violations.

23 THE REFEREE: Where is the last exhibit?

24 MR. SASSOWER: I'll show you Martin Evans
25 and also Judge Bruce Wright and Judge Conner.

1
2 MR. SASSOWER: It's the last part that's
3 important, your Honor, which raises double
4 jeopardy, and also disagrees with Mr. Schneider's
5 opinion.

6 THE REFEREE: Sir, I have Mr. Lester Evans'
7 decision right in front of me.

8 All it says is that the -- this motion is
9 denied; that's all.

10 MR. SASSOWER: But the motion was based on
11 the fact that I had violated, by things that are
12 on the list in 10 and 11, that I had violated
13 court orders and Judge Lester Evans, as did
14 Judge Martin Evans and Judge Wright and Conner
15 said they're nonsense.

16 They examined the evidence and --

17 THE REFEREE: Sir, you can't have it both
18 ways.

19 MR. SASSOWER: I'm having it one way.

20 THE REFEREE: Mr. Justice Evans has no right
21 to overrule a judge of the same court.

22 MR. SASSOWER: He didn't overrule him.

23 THE REFEREE: That's what you're saying he
24 did.

25 MR. SASSOWER: I'm not saying. I'm

1
2 saying that the testimony, the pleadings in
3 this case -- I'll go one step further -- your
4 Honor, I'm saying this -- the complaint in this
5 case alleges that I have violated a lot of orders.

6 I'm not talking about Charge 1, 2 or 3.

7 I'm talking about charges afterwards and
8 I'm saying this to your Honor -- I have orders
9 of the court which specifically state, show that
10 this is all nonsense. I did not violate it.

11 Now, If I had --

12 THE REFEREE: We've already received in
13 evidence copies of contempt proceedings.

14 MR. SASSOWER: I'm not talking about that.

15 I'm talking about other things.

16 They said --

17 Let's deal with that later on.

18 MR. STRAUS: You have no legitimate pur-
19 pose in offering this.

20 You cannot attack those convictions by
21 using one which reached the conclusion on
22 different facts.

23 You can only invalidate a conviction by
24 pursuing appeal or pursuing proceedings in
25 another court which has jurisdiction.

I ask Judge Potoker to rule that this is immaterial and irrelevant to the contempt proceedings which have resulted in convictions.

You cannot do it that way, Mr. Sassower.

THE REFEREE: Mr. Sassower --

MR. SASSOWER: Take it subject to connection, take it subject to connection.

THE REFEREE: We don't need it subject to connection.

You have already offered it in evidence. It was received in evidence. No objection by Mr. Straus that Mr. Justice Evans order of 1-15-86 be received in evidence.

MR. SASSOWER: Okay.

THE REFEREE: We have it here. The decision speaks for itself.

MR. SASSOWER: Well, may I understand that I'm not trying to --

THE REFEREE: It's very clear. "The motion to hold George Sassower in contempt is denied."

With regard to charges of counter-related to Mr. Sassower's motions, Number 145 of the calendar --

MR. SASSOWER: It's moot, but the second

part --

THE REFEREE: Motion has been dismissed, contempt charges now moot.

"Those charges pertaining to Mr. Sassower's purported actions in matters other than 145 are insufficient to support a finding of contempt."

MR. SASSOWER: Now, what I'm saying is this, your Honor, what I'm saying is this --

THE REFEREE: You are not saying that Justice Evans invalidated all the other orders of the other Judges?

MR. SASSOWER: No. I'm saying this, that he found after a massive submission that I didn't violate anything. Okay?

THE REFEREE: Next question.

CROSS EXAMINATION

BY MR. SASSOWER:

Q The same submission, Mr. Schneider, that you made to Judge Lester Evans, did you substantially, the same submission as it came in, did you make it to Judge Martin Evans?

MR. STRAUS: Objection.

THE REFEREE: No.

Q Did you, as the -- by the way --

1
2 you are appealing Judge Martin Evans second order now,
3 is that correct?

4 A That's correct.

5 Q You are appealing it.

6 In fact, on that appeal, on the second Martin
7 Evans, I made a motion to dismiss for lack of prosecut-
8 ion, is that right?

9 Yes or no.

10 A You made that motion within a month or so before
11 the renewal motion was decided.

12 Q Two months after.

13 A Within a month after the appeal was filed, you
14 made that motion.

15 Q Is it not true that within a day or two after
16 I served you with a copy of Judge Lester Evan's order with
17 notice of entry, you handed me, you and others handed me
18 four more motions for contempt?

19 Yes or no.

20 A After this --

21 THE REFEREE: After January 30, 1986.

22 THE WITNESS: Yes, your Honor.

23 MR. SASSOWER: Judge, yes, your Honor.

24 A Around January 30th the receiver served either two
25 or three motions for contempt based on subsequent incidents.

1
2 Q But, Mr. Schneider, bear with me for a moment --
3 are you really familiar with double jeopardy? Wait a second.

4 Are you familiar with double jeopardy in its
5 constitutional sense, "Ash against Swenson"?

6 A I'm not familiar with the holding in Ash against
7 Swenson.

8 Q You made a comment that I am suing all the Judges
9 because I'm suing Justices of the Supreme Court. Do you
10 know --

11 Are you familiar with Hall against Potoker,
12 P-O-T-O-K-E-R?

13 MR. STRAUS: Sounds like "Potoker."

14 Q Do you know how you commence a prohibition?

15 A I'm familiar with Article 8 of the CPLR.

16 Q Are you familiar with writs of prohibition on
17 the ground of double jeopardy?

18 A I've learned of it through your repeated
19 applications on that ground.

20 Q Okay. And, isn't --

21 Don't I generally follow the procedure that
22 where I know the name of the Judge and it's a double jeopardy
23 claim I bring a proceeding against the Judge and if I don't
24 know who the Judge is going to be or involved, I bring it
25 against the Justices of the Supreme Court or whatever court

1
2 is involved?

3 MR. STRAUS: Objection.

4 Q Is that true?

5 THE REFEREE: Sustained.

6 Q Is that what you are telling me?

7 Now, let's talk about Judge Gammernan, okay?

8 Were there two Judge Gammernan's orders dated
9 January 23rd, 1985?

10 Yes or no.

11 A I'm not sure.

12 The permanent injunction issued --

13 Q Just answer.

14 MR. STRAUS: He's answering the question.
15 You can't cut a witness off in the middle of an
16 answer.

17 THE REFEREE: You have asked a question
18 and he's telling you he's not sure because you
19 brought two actions.

20 MR. SASSOWER: What?

21 MR. STRAUS: I would ask Judge Potoker
22 to instruct Mr. Sassower to allow the witness to
23 answer a question before he makes a comment or
24 ask another question.
25

He may not want the answer, but we have a right to hear it.

MR. SASSOWER: If your Honor pleases, if your Honor pleases --

THE REFEREE: Wait, please, will you please?

MR. SASSOWER: If he doesn't know the answer --

THE REFEREE: Will you please? The Court Reporter will read back the witness' response.

(Whereupon the Official Court Reporter repeated as indicated)

MR. SASSOWER: Could I have the Judge Cammerman order that you introduced in evidence?

MR. STRAUS: Judge Gammerman's order. Do you know which one that is?

It should be early on.

THE REFEREE: Exhibit 8. That's the permanent injunction.

MR. SASSOWER: Could I have, your Honor, maybe my understanding is a little different than your Honor's.

THE REFEREE: You wanted Judge Gammerman's?

MR. SASSOWER: I'd like to know which legal proceeding on Exhibit 10 and 11, I think it is,

they contend violated a court order.

MR. STRAUS: You have asked that before and we had extensive colloquy on it.

MR. SASSOWER: I'm saying Judge Lester Evans -- for example -- says I didn't violate it by all these proceedings.

That's what I am saying.

THE REFEREE: You are saying it.

MR. SASSOWER: Maybe I'm thick today.

THE REFEREE: Inquire of the witness.

MR. SASSOWER: Well --

THE REFEREE: You are on cross-examination now.

MR. SASSOWER: Well, okay.

THE REFEREE: Restrict yourself to that.

MR. SASSOWER: I can't even get what the nature of the charges here, very frqnkly.

THE REFEREE: The witness testified all morning and part of this afternoon.

You know what he said.

MR. SASSOWER: In some respects, no, your Honor.

THE REFEREE: Inquire further.

MR. SASSOWER: Let's talk about Judge Gammer-

man's order.

THE REFEREE: Show him the order, so --

CROSS EXAMINATION

BY MR. SASSOWER:

Q Are you familiar with the order?

A May I see it?

THE REFEREE: That's Petitioner's 8 in evidence.

THE WITNESS: Yes, I am.

THE REFEREE: Go ahead.

Q As a litigating attorney --

MR. SASSOWER: Withdrawn.

Q You stated that there was a temporary restraining order signed by Judge Hughes, is that correct?

A That is correct.

Q Then you said there was a permanent injunction signed by Judge Gammerman, is that correct?

A That is correct.

Q Did you mention anything in between to his Honor when you testified for Mr. Strauss?

Yes or no.

A I mentioned several things.

Q Anything that happened between the temporary restraining order which is an order to show cause, ex-parte,

and the order of January 23rd?

A I do recall testifying that there were violations of the temporary restraining order.

THE REFEREE: And you say that there were three lawsuits instituted.

THE WITNESS: My recollection, without seeing the order, is that there were three.

The order, I believe, recites it and I'd like to see the order.

Q Okay. I'll come to it.

You say there were three or more lawsuits instituted.

A Not more.

THE REFEREE: Three, between December 7, '84 the effective date of the temporary restraining order of Mr. Justice Hughes and January 23rd, '85, the permanent injunction granted by Mr. Justice Gammernan.

THE WITNESS: That's correct.

Q Were you in court on December 19, 1984?

A Is that the return date of the order to show cause?

Q Yes, or the return date.

A Yes.

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Q You were in court.

A Yes.

Q Do you have the minutes of the proceedings in court that day?

A Yes.

Q And did Judge Gammernan on the return date modify Judge Hughes' restraining order in any respect?

Yes or no.

A I'm not sure; he continued it.

I don't recall if he modified it in any respect.

Q When you come the next time --

THE REFEREE: Sir, they are both in evidence. Just compare them to the temporary order.

MR. SASSOWER: No, no, it was modified. He left out the modification.

THE REFEREE: You mean of the permanent injunction.

MR. SASSOWER: No, that's why --

Q Mr. Schneider, when you submit an order --

THE REFEREE: May I have Petitioner's Exhibit 7?

MR. SASSOWER: He hasn't shown it to you, Judge; it was modified.

THE REFEREE: It's in evidence.

1
2 Q Between this and this, it was modified; there
3 was nothing violated, --

4 A Sir, the order itself refers to your violation
5 of the TRO.

6 How can you say it wasn't violated?

7 THE REFEREE: A judge who issues a permanent
8 injunction, what do you think he wants?

9 MR. SASSOWER: I'm saying it wasn't violat-
10 ed, and I'll show you why.

11 MR. STRAUSS: I'll object to Mr. Sassower
12 testifying.

13 THE REFEREE: Sir, inquire of this witness,
14 Number One, whether or not he considered your
15 actions in bringing these lawsuits as violative
16 of the temporary injunction, and in what way it
17 wasn't.

18 MR.SASSOWER: I'm asking it a little dif-
19 ferently.

20 Q Did not Judge Gammerman, on the return date on
21 December 19, remove, remove the injunction against suing
22 the lawyers here?

23 Yes or no.

24 A I don't believe he did. I don't believe he ever
25 did. That's not reflected in his ultimate order which

specifically --

MR. STRAUS: Can we have the full answer?

MR. SASSOWER: Your Honor, I'll tell you frankly, I think we would save time if we would come back and he would bring back all his documents.

THE REFEREE: Sir, what documents do you want?

MR. SASSOWER: I want the minutes in between--

THE WITNESS: You have the minutes.

THE REFEREE: Wait. You want something and the witness responds and then he said you already have the minutes.

Q Tell me, Mr. Schneider --

THE REFEREE: Do you have the minutes? He said you already have the minutes.

MR. SASSOWER: I'll talk about that. I have the minutes.

MR. STRAUS: Why are you directing the witness to bring them, please, sir?

MR. SASSOWER: I hope I have the minutes.

THE REFEREE: Go ahead.

Q Mr. Schneider, did you have a conversation ex-parte with Judge Riccobono or Judge Gammernan between

December 19, 1984, and February 23rd, 1985? When I say "you" or any member of your firm?

A No.

MR. STRAUS: Objection.

A No.

THE REFEREE: What do you mean ex-parte? You mean an order ex-parte?

MR. SASSOWER: Ex-parte.

THE REFEREE: Just a conversation off the bench, on the bench, off the record, on the record?

MR. SASSOWER: He said "No."

THE REFEREE: What was your question?

MR. SASSOWER: The question is whether he had an ex-parte or his firm had ex-parte conversations with Judge Riccobono.

THE REFEREE: About what, about the weather of the day?

MR. SASSOWER: With this proceeding.

THE REFEREE: Let's be precise of what you are requiring.

MR. SASSOWER: Of course, your Honor. I'm not talking about the weather.

Q Did you have ex-parte conversations with Judge

1
2 Gammerman or Judge Riccobono between December 19 and
3 January 23rd?

4 A No.

5 Q You or your firm.

6 A No.

7 Q As a litigation attorney, when a judge renders
8 a decision, do you submit an order which conforms to that
9 decision?

10 Yes or no.

11 A I attempt to.

12 Q You attempt to.

13 A When I'm directed to do that.

14 Q You didn't submit this order, did you?

15 THE REFEREE: Which order?

16 MR. SASSOWER: I'm sorry, your Honor.

17 Petitioner's 8.

18 A That order is on the stionery of the firm of
19 Kreindler and Relkin, which is not my firm.

20 Q You concurred in that order, didn't you?

21 MR. STRAUS: Objection.

22 Q You didn't object to that order, did you?

23 THE REFEREE: Were you a part to that pro-
24 ceeding?

25 THE WITNESS: I was a party to that proceed-

ing.

Q Mr. Schneider, there are ten actions listed in this order, is that correct?

THE REFEREE: In which order?

MR. SASSOWER: Petitioner's 8.

Q There are ten actions listed there.

A There are ten actions in the caption; the order refers in the body to various actions.

Do you want me to compare them?

Q Are there ten titles in the order?

A There are ten captions as part of that order.

Q How many catpions, boxes are there in the order to show cause?

A Four.

Q Could you tell me how, when you bring a motion by order to show cause leveled at four actions or proceedings, how you get an order that includes ten actions and proceedings?

A Yes, I can very simply.

In addition to the order to show cause brought by my firm, two other law firms who represented other litigants in the Puccini litigation brought their own motions for preliminary injunction based on actions that they were parties to, that I was not to. In addition,

1
2 the, subsequent to the TRO, you commenced additional
3 actions, which we put into that caption.

4 Q Who gave you the authority -- wait a second --
5 who gave you the authority, Mr. Schneider, that after a
6 judge renders a decision and tells you to settle an order,
7 which is what his Honor said on December 19 --

8 MR. STRAUS: Objection.

9 MR. SASSOWER: Wait a second.

10 MR. STRAUS: That's not a question.

11 THE REFEREE: Let me hear the balance of
12 the question.

13 Q Who gave you the authority after a judge renders
14 a decision which provides for settle order, to include
15 in that order matters which were not before the court at
16 the time the motions were made?

17 A I didn't settle that order. I previously testified
18 to that.

19 It's on the stationery of K reindler and Relkin,
20 a different law firm.

21 Q You concurred in it.

22 MR. STRAUS: Objection.

23 THE REFEREE: Sustained.

24 Q Mr. Schneider, in the decision of Judge Gammernan,
25 -- we'll bring in the decision of Judge Gammernan --

MR. STRAUS: I thought we had the decision.

MR. SASSOWER: That's the order; not the decision.

THE REFEREE: This is the final document in the case.

Once an order is settled, the Judge signs the order.

MR. SASSOWER: We'll see about that.

THE REFEREE: We don't have to see about it.

MR. SASSOWER: You listen to me, please listen to me.

THE REFEREE: I've been listening to you all day, sir. All right.

It's after four. I promised to let you go. Next week --

MR. SASSOWER: You're going to have some surprises here.

Please don't. All I ask your Honor to do --

THE REFEREE: Sir, don't lecture me, sir.

MR. SASSOWER: I'm not lecturing you.

THE REFEREE: I was a Judge for twenty odd years and served in every court of the city and state and I've written extensively on various legal topics, so, I don't need any lecturing.

MR. SASSOWER: I'm not lecturing. All I'm asking you for you to do me a favor and let me develop my case.

THE REFEREE: I'm listening to you and have listened to you all day, but there comes a time when you have to adhere to certain rules too, in the courtroom.

MR. STRAUS: Judge Potoker, may I, at this time, indicate, so that we don't have the same problem with witnesses, that in addition to Mr. Schneider, there are four other witnesses that we'll produce?

Two of them have been mentioned previously. That is Hyman Raffé and Ira Postel.

Also, we'll produce as witnesses, Referee Diamond, Donald Diamond, and Michael Gerstein.

MR. SASSOWER: Terrific.

MR. STRAUS: I would ask your Honor, in view of the fact that I have made the statement on the record, that Mr. Sassower should be prepared to cross-examine them fully at the time they appear to testify?

MR. SASSOWER: Tell me the night before, eleven o'clock at night so I can't do anything.

MR. STRAUS: Once we have established what the schedule will be, when Mr. Schneider's testimony has been completed, then I can give you a response.

I can't tell you how long you expect to be with Mr. Schneider.

MR. SASSOWER: May I make a suggestion, Mr. Straus and I think it would be helpful to the Court and myself and yourself, I would suggest that you put Mr. Gerstein on first and I'll tell you why, because he starts off --

THE REFEREE: You will complete the cross-examination of this witness.

MR. SASSOWER: Judge, I made a suggestion. Just listen to me out.

THE REFEREE: Sir, it is my responsibility to conduct an orderly hearing.

MR. SASSOWER: I'm not saying "no."

I'm saying listen to me for a moment.

THE REFEREE: You will continue with the cross-examination of this witness next Tuesday.

Cancel all appointments that you may have.

Do not make any appointments.

MR. SASSOWER: Your Honor, all I did was make

a suggestion. You don't have to adopt it.

I said it's better to go with the first man first. That's all.

MR. STRAUS: I don't expect to have that many witnesses waiting around to make future appearances.

I'd just like to inconvenience one at a time.

THE REFEREE: How long do you anticipate further cross-examination of this witness?

MR. SASSOWER: Two days.

MR. STRAUS: Two additional days?

MR. SASSOWER: Yes. Today I didn't have my papers so don't blame me.

MR. STRAUS: I don't think it's conceivable that you can have two days based on his direct.

THE REFEREE: The reason I asked, I don't preclude your right to conduct a full examination.

I don't want other witnesses to come in here and sit around.

MR. STRAUS: We'll put them on telephone call.

MR. SASSOWER: Your Honor, may I ask you one further thing that I have asked before, which I think will be very helpful to you, and

not prejudice Mr. Straus, and I know different Judges have different practices, let me give you two copies of a memorandum, and then, your Honor, at the appropriate time, will give one copy to Mr. Straus.

MR. STRAUS: We've been through that, sir.

THE REFEREE: Sir, I don't want to be privy to any documents submitted by one side in the absence of the other side getting the same copies.

MR. SASSOWER: I did say most of the Judges that I have been before with all due respect --

THE REFEREE: I've never done it. I don't intend to do it.

MR. SASSOWER: A trial memorandum, they take it in the beginning from one side if there is no exchange with the copy going to the other side.

I thought it would be helpful.

THE REFEREE: Thank you, very much.

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