

SUPREME COURT OF THE STATE OF NEW YORK

192.

APPELLATE DIVISION: SECOND JUDICIAL DEPARTMENT

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

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

Petitioner, :

GEORGE SASSOWER, :

Respondent. :

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Brooklyn, New York

February 25, 1986

B e f o r e:

HON. M. MICHAEL POTOKER, ESQ., Referee

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

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

ARTHUR BLAUSTEIN
Certified Shorthand Reporter

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2 MR. SASSOWER: I'd like to make a state-
3 ment on the record but I don't want Mr. Schneider
4 to hear it.

5 THE REFEREE: You wanted a public trial.

6 MR. SASSOWER: A public trial in my opinion,
7 does not mean that a witness who has not finish-
8 ed testifying --

9 THE REFEREE: Does it relate to the witness?

10 MR. SASSOWER: It will.

11 THE REFEREE: Does it?

12 MR. SASSOWER: It will relate to his testimony.

13 THE REFEREE: Would you wait outside, sir?

14 MR. SASSOWER: Your Honor, I was just handed
15 a copy of a letter that was addressed to me
16 yesterday and I want to state, your Honor,
17 in very brief manner the particular position I
18 find myself in at the present time.

19 THE COURT: You are relating to a letter of
20 which I have a copy sent to you by Mr. Straus
21 on February 24, 1986.

22 MR. SASSOWER: Which was yesterday.

23 THE REFEREE: Is this the letter that you
24 are referring to?

25 MR. SASSOWER: Yes.

THE REFEREE: Let's mark it for identification. It will be Respondent's C for identification.

(received and so marked)

MR. SASSOWER: There are two points I wish to make. The initial point is a matter which I think your Honor is unaware of. Mr. Straus is aware of it.

After our conference on January 30, Mr. Schneider obtained a sham order from Referee Diamond which directed the Sheriff of Westchester County to break into my premises and seize the word processor that I use and all the software.

The basis of this break-in was that he claimed there was a judgment against me for \$5,000 which does not exist.

Nevertheless, well, the sheriff's counsel of Westchester County demanded a million dollar bond for him to follow directions of that particular order.

When the sheriff's counsel advised me that he had been satisfactorily indemnified, I was forced literally in the middle of the night to take my word processor, my software, my files

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2 and go underground, so as to speak. It was a
3 horrible two weeks from the point of view of
4 this case because what I physically did was take
5 all the files and just dump them into boxes,
6 one o'clock, two o'clock, three o'clock in the
7 morning and took them someplace else with the
8 word processor.

9 It would probably take me a month to re-sort
10 those files in their proper order. That is one
11 side of the story.

12 The other side of the story is, and, this
13 is the second time that Mr. Straus has done it,
14 where he's pulled a surprise upon me at the con-
15 ference, if your Honor remembers, he says he'll
16 only have two witnesses, Mr. Postel and Mr. Raffae.
17 Without any forewarning, he brings Mr. Schneider,
18 which I accept, which is fine, except you have
19 to understand that I have to prepare to bring
20 certain files beforehand and leave certain files
21 behind. I certainly can't bring everything.

22 I spoke to -- I'm sorry -- I don't remember
23 your name, Mr. Ravanelli (phonetic). I spoke
24 to him, I think it was Thursday or Friday,
25 Friday and I was given the clear understanding

that copies of the exhibits would be given to me.

Now let us go back for a moment. I asked Mr. Straus repeatedly before your Honor was even appointed and I said, "Look, while we're waiting for the Appellate Division to come down with an appointment, why can't we get together and go over the exhibits so that when a referee is appointed we have the exhibits? You have your exhibits. I have my exhibits. I'll photostat mine in triplicate. You can photostat yours in triplicate and we can have all this ready for the referee."

Mr. Straus said no, he would not exchange exhibits, he would go through no pre-trial procedures until a conference was held with the referee.

Now, at that time, I was physically able to do all this paper work. Now, I am not.

Mr. Ravanelli told me Friday and I went through the circumstances that I am under and I told Mr. Ravanelli "I don't want you to do any extra photocopying." But I'm sitting here with a mess, a real mess. Files are all over the place. I spent hours every day just assorting

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2 files, nothing else, and Mr. Ravanelli was very
3 nice, he understood and I said if I'm going to
4 be in Brooklyn on Monday, I'll pass by Monday
5 and I'll pick up the exhibits. If not, I'll get
6 them on Tuesday and I heard nothing about it.

7 I came today with what I needed today.
8 The one thing I did not bring is -- insofar as
9 I have them -- copies of their exhibits and
10 now I'm given a letter. They could have called
11 me up and said, "Mr. Sassower, notwithstanding
12 what Mr. Ravanelli said" or "We changed our
13 mind" or whatever you want to say, they could
14 have said, "Yes," they could have said, "Mr.
15 Sassower, we're not giving you photostatic
16 copies of the exhibits."

17 THE REFEREE: Mr. Sassower, what is your
18 wish?

19 MR. SASSOWER: My wish is that they supply
20 me with a copy of the exhibits and from here on
21 in they are at liberty to change their mind
22 provided they don't cause prejudice.

23 THE REFEREE: All right. You compile a
24 list of the exhibits which you have.

25 Mr. Straus indicates that copies were already

made for you previously.

MR. SASSOWER: No, they were not.

MR. STRAUS: May I be heard on this point?

THE REFEREE: I will, in a moment.

MR. SASSOWER: Some of these exhibits I have. Probably most of the exhibits, I have.

I didn't bring them physically. When I went through my papers to come this morning, whatever exhibits I knew Mr. Straus was going to give me I didn't bring.

THE REFEREE: Sir, the exhibits that are already in evidence, you have those here today.

MR. STRAUS: Yes, we do.

THE REFEREE: What are we talking about?

MR. STRAUS: If you want to use the exhibits, you can, for cross-examination.

THE REFEREE: He has a right to use them.

MR. SASSOWER: The point is, your Honor, he promised to give them to me.

MR. STRAUS: May I be heard, please, you are making misstatement after misstatement. May I have an opportunity to be heard?

THE REFEREE: Mr. Sassower --

MR. SASSOWER: Judge, one more moment.

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2 THE REFEREE: No, no, I gave you --

3 MR. SASSOWER: I want to make one more
4 statement, that's all.

5 THE REFEREE: Please don't repeat yourself.

6 MR. SASSOWER: I don't repeat myself.

7 Mr. Straus sent out this self-serving letter
8 knowing I would not receive it, to come today,
9 knowing that I had reasonably expected these
10 exhibits thereof.

11 THE REFEREE: Mr. Straus didn't do it for
12 that reason.

13 Mr. Straus, you may be heard.

14 MR. STRAUS: There are some points that
15 I'd like to make.

16 First of all, Mr. Ravanelli is here.
17 I believe he would be willing to be sworn as a
18 witness to testify to the fact that he told
19 Mr. Sassower on Friday, then repeated the con-
20 versation to me, because he spoke to Mr. Sassower
21 pursuant to my instructions, precisely as is
22 stated in that letter that we would not provide
23 him copies. He had these copies which we have --
24 this conversation we have had at least a dozen
25 times since I first spoke to Mr. Sassower. There

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2 is no need for us to make copies of documents
3 which are in your possession, if you want to
4 examine the exhibits in evidence for their ac-
5 curacy, we'll make them available to you. All
6 you have to do is call our office and make the
7 physical arrangements, we'll have someone there
8 to oversee that. Mr. Ravanelli repeated that
9 conversation to me almost verbatim.

10 I drafted a letter Friday afternoon which
11 unfortunately there was no one left in the office
12 to type. It went out first thing yesterday
13 morning.

14 In addition, I, of course, have given copies
15 today but furthermore, there is a continuing
16 problem which Mr. Sassower has created with
17 respect to these hearings which I think has to
18 be dealt with.

19 He has served subpoenas to my knowledge.
20 I have been contacted by four people, Michael
21 Gurstein, Donald Schneider --

22 THE REFEREE: Suppose we hold that for a
23 moment?

24 MR. STRAUS: This relates to the same thing.
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2 These subpoenas which were served ask
3 again for the complete records, all records
4 pertaining to Puccini. That covers six years
5 of litigation.

6 I have copies of the subpoenas served on
7 Mr. Schneider and Mr. Gurstein here today and I
8 think they should be marked as Referee's Exhibits,
9 particularly since they were not signed by the
10 Referee, although Mr. Sassower was instructed
11 that all subpoenas relating to this disciplinary
12 proceeding were to be submitted to the Referee
13 for signature.

14 A letter to that effect was sent to Mr.
15 Sassower confirming that understanding.

16 I spoke to the Appellate Division. They made
17 the arrangement very clear to me and indicated
18 that they made it clear to Mr. Sassower.

19 These subpoenas which I request be marked
20 as Referee's Exhibits are not signed by a Referee.

21 I don't even know if they were submitted to
22 you for signature.

23 MR. SASSOWER: May I be heard?

24 MR. STRAUS: When I'm finished, sir.

25 THE REFEREE: They will be Referee's Exhibits

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2 3 and 4.

3 (received and so marked)

4 MR. STRAUS: In connection with those
5 exhibits, your Honor, I have a copy of a letter
6 which was sent to Mr. Sassower and to yourself
7 concerning the arrangements for the service
8 of subpoenas and I ask that that be marked as a
9 Referee's exhibit.

10 THE REFEREE: That will be Referee's Exhibit 5.

11 (received and so marked)

12 MR. STRAUS: Pursuant to the instructions
13 of the Clerks Office, Appellate Division, we
14 re-served the witnesses who had not yet testi-
15 fied with subpoenas which were submitted to
16 your Honor for signature.

17 Mr. Sassower sees fit to ask witnesses to
18 produce the same incredible volume of cases
19 which he says he's personally unable to deal
20 with although he has them in his possession,
21 covering a period of some six years, with
22 subpoenas which are clearly invalid and which were
23 served in violation of his understanding of the
24 rules to govern the issuance of subpoenas.

25 The witnesses contacted me.

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2 You should also note that those subpoenas
3 are returnable this afternoon despite Mr. Sassow-
4 er's statement that he expected to have Mr. Schneid-
5 er on the stand for another two days and we'll
6 be on our case for at least three or four more
7 days, he has insisted that those witnesses appear
8 this afternoon.

9 I don't even know what other witnesses have
10 been served and haven't contacted me.

11 However, I assured them that I would take
12 the matter up with you so I could get back to
13 them as to whether or not they'd be required to
14 appear this afternoon at two o'clock.

15 The other two were Richard Blumberg of the
16 law firm of Arutt, Nachamie, N-A-C-H-A-M-I-E,
17 and Edward Welshman whose firm is counsel to
18 the accounting firm of Rashba R-A-S-H-B-Aand
19 Pokart P-O-K-A-R-T.

20 Now, at this point, I think that Mr. Sassow-
21 er should be directed by you on the record to
22 submit all subpoenas to you for signature, par-
23 ticularly since these subpoenas clearly violate
24 the rulings which were made at the pre-hearing
25 conference.

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2 It is very apparent that Mr. Sassower
3 wishes to re-try the civil litigation pertain-
4 ing to Puccini particularly since he asks for
5 all materials pertaining to any relationship
6 with various judges, attorneys, accountants and
7 anyone else who dealt with Puccini.

8 Clearly the subpoenas are invalid on their
9 face.

10 Apparently -- I don't know Mr. Sassower's
11 motives for sure, but apparently the purpose
12 is to impose additional, incredible burdens on
13 witnesses.

14 All of these witnesses have told me that
15 Mr. Sassower has all of those materials in his
16 possession, that they have been provided to
17 him over the years, that he had authored nearly
18 all of them himself, that any other materials
19 were either served on them or provided subsequent-
20 ly which is the statement Mr. Sassower made to
21 me before your Honor was appointed as Referee.

22 So, my application is that you direct
23 Mr. Sassower, pursuant to the understanding or
24 pursuant to the direction of the Appellate Divis-
25 ion, that he is to submit all subpoenas for your

signature and I also ask for a ruling at this time that the subpoenas which are before you are invalid and in fact, if submitted to you for your signature, should not have been signed.

MR. SASSOWER: Your Honor, Mr. Straus makes statements about matters which he was not privy to.

It was Mr. Straus who told me the day before, in fact, he mentioned it at the conference and we mentioned it at the Appellate Division and Mr. Straus said to me, "You submit them to the Appellate Division during the luncheon recess on Thursday." They didn't process the subpoenas and I came back a little tired.

I asked your Honor would he be so kind as to adjourn earlier so I can go back to the Appellate Division and pick up the subpoenas.

When I went back to the Appellate Division, Mr. Edmunds, Artie Edmunds, who is the deputy clerk there, and I'm making it short, Mr. Straus was not there, said he spoke to "Upstairs" which, I assume means the presiding judge or somebody who can speak for the presiding judge, and it is his wish that your Honor sign subpoenas

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2 and then he said to me, and this is an actual
3 quote, "Well, you're an attorney, why don't you
4 sign them just like a regular trial?" and I
5 said to Mr. Edmunds that he was perfectly correct
6 and I'm just shortening this, that if this was
7 an ordinary trial, I would sign subpoenas, not
8 have them countersigned except when it came to
9 certain governmental officials where you have
10 to have it so ordered, and I said the only
11 reason I submitted non-governmental subpoenas
12 for signature is because I know the practice
13 in the Grievance Committee in Westchester County
14 to submit --they used to submit them to Mr.
15 Selkin. Mr. Selkin, as your Honor probably knows,
16 is on semi-retirement until June.

17 So, Mr. Edmunds corrected me and he said,
18 "No, you are under a misapprehension. They submit
19 subpoenas to us, when they are in the investi-
20 gatory state, in the investigatory stage, we
21 have to so order subpoenas but on the trial
22 stage. There is absolutely no reason from what
23 I see" and he went to the CPLR. He says "There
24 is absolutely no reason --" and Mr. Straus
25 wasn't there. "There is absolutely no reason

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2 why you can't sign a subpoena without it being
3 so ordered by the referee."

4 And that was the conversation, that was
5 the whole conversation and I left the Appellate
6 Division and that was the impression, the under-
7 standing, the statements.

8 In fact, I went back and the next day I
9 did a little checking and Mr. Edmunds of the
10 Appellate Division was correct, that what the
11 Grievance Committee does when they get the so
12 ordered for non-public officials, they do it
13 in the investigatory stage and it is not neces-
14 sary to do it on the trial stage and Mr. Edmunds
15 happened to be correct.

16 So don't say to me that I have violated
17 any agreement with the Appellate Division because
18 I did not.

19 MR. STRAUS: I spoke to Mr. Edmund immediately
20 after Mr. Sassower was there. He told me
21 that he had instructed Mr. Sassower to submit
22 the subpoenas to the referee for signature and
23 that I should follow the same procedure. Now,
24 it would be very curious to me why --

25 MR. SASSOWER: I spoke to him after you.

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2 MR. STRAUS: Will you allow me?

3 MR. SASSOWER: Let me finish.

4 MR. STRAUS: It's very curious to me why
5 Mr. Edmund instructed me in a totally inconsistent
6 fashion from what he instructed Mr. Sassower
7 and he told me that he had just spoken to Mr.
8 Sassower. As to that, I don't know, but it is
9 my understanding that at a trial, subpoenas duces
10 tecum are signed by a judge. I must say that
11 having been in this specialty, for sometime, that
12 was also my understanding as to documentary
13 materials which were subpoenaed pursuant to
14 a subpoena duces tecum and I have asked, because
15 your Honor is familiar with the rulings that you
16 made, you are familiar with the scope of this
17 hearing and you are familiar with the restrict-
18 ions which have been placed on Mr. Sassower's
19 ability to go behind the decisions in this case,
20 that I again renew my request that he be directed
21 to submit all subpoenas for your signature and
22 in the event that the subpoenas are inappropriate,
23 that your Honor may decline to sign them so
24 that we may have some regulation of Mr. Sassower
25 totally burdening people with unreason-ble demands

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2 for no purpose.

3 MR. SASSOWER: Your Honor --

4 THE REFEREE: Mr. Sassower, I've heard
5 enough on this subject.

6 It is my ruling that for the duration of
7 this hearing as long as I have been the Special
8 Referee appointed by the Appellate Division, all
9 subpoenas must be signed by me.

10 Accordingly, the subpoenas already served
11 upon Kreindler and Relkin and Feltman and
12 Karesh and Mager and Farbman are vacated.

13 MR. SASSOWER: Your Honor, I would ask your
14 Honor --

15 THE REFEREE: I have so ruled, period. Next.

16 MR. SASSOWER: Well --

17 THE REFEREE: I've ruled, sir.

18 MR. SASSOWER: Well, fine, will you please
19 so order them and I'll have them re-served.

20 THE COURT: You will submit them to me
21 for signature first.

22 MR. SASSOWER: Well, I'm telling your Honor
23 that I spoke to Mr. Edmunds after Mr. Straus.

24 Now he's making a representation that he
25 knows nothing about --

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2 THE REFEREE: I'm not interested in what
3 the gentleman said. I'm the Referee here. This
4 is my ruling.

5 MR. SASSOWER: Fine, your Honor. May I
6 ask your Honor to so order these four subpoenas
7 duces tecum as a matter of constitutional right.

8 I have the right to everyone's testimony
9 and I'm not burdening anybody, as your Honor sees.

10 THE REFEREE: Sir, do you have any subpoenas
11 you wish me to sign? Leave them here with me
12 and I'll review them and let you know what I
13 intend to do with them.

14 MR. SASSOWER: Your Honor must understand --

15 THE REFEREE: Sir, we don't have to make
16 speeches every time I rule.

17 MR. SASSOWER: I'm saying that I have to
18 get them out.

19 THE REFEREE: It's simple English.

20 MR. SASSOWER: I have to get them out to
21 get served.

22 THE REFEREE: Are we ready to continue the
23 hearing?

24 MR. STRAUS: May I? First of all, I have
25 some additional documents which I want the record

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2 to indicate that I am handing to Mr. Sassower
3 at this point.

4 These are copies of letters from Mr.
5 Schneider to me.

6 In addition, I have a two-page document
7 which is not dated and not signed but I make a
8 representation that it was prepared by Mr.
9 Schneider.

10 May the record indicate that I am handing
11 that packet to Mr. Sassower at this time.

12 In addition, I'd like to indicate to your
13 Honor that pursuant to the schedule that we had
14 agreed on, I've arranged for this courtroom
15 to be available on March 4, March 6, March 11,
16 and March 13 for the continuation of this hear-
17 ing.

18 THE REFEREE: Are those dates satisfactory
19 to you?

20 MR. SASSOWER: On March 4th, I have to be
21 in the Circuit Court of Appeals but I can be
22 here probably about 12 o'clock.

23 MR. STRAUS: Your Honor, I would ask Mr.
24 Sassower, if possible, to seek an adjournment
25 or an alternative date for that appearance.

He was well aware on January 30 --

MR. SASSOWER: I don't make it.

MR. STRAUS: -- that we'd be conducting this hearing.

THE REFEREE: He said he'll be here at 12 o'clock. Is there any objection?

MR. STRAUS: We'll make it at 12 o'clock. That will be March 4 at 12 o'clock.

THE REFEREE: What about March 6?

MR. STRAUS: March 6, March 11 and March 13.

THE REFEREE: Mr. Sassower, you will make a notation of these dates.

MR. SASSOWER: Yes, I do, your Honor. I know what dates they are.

THE REFEREE: Pardon?

MR. SASSOWER: It's every Tuesday and Thursday for the next two weeks.

MR. STRAUS: Just one other point.

MR. SASSOWER: I want to finish what you said.

MR. STRAUS: I want to make a brief application, if you please.

Mr. Schneider contacted me yesterday and asked me if he might be given an opportunity to

clarify one point on his examination which he thinks he may have been inaccurate on and I assured him that I would bring it to your attention, and I would ask you to permit him to give that testimony.

THE REFEREE: Yes, Mr. Sassower.

MR. SASSOWER: Your Honor, I'd like to move along but I don't like when Mr. Straus --

THE REFEREE: Wait, wait, you said you'd like to move along.

MR. SASSOWER: Yes, but --

THE REFEREE: Wait, it's not my intention to rush you if you are not ready.

MR. SASSOWER: Judge, let me finish my sentence.

THE REFEREE: Any time you believe that you need additional time, just make that request.

MR. SASSOWER: I analyzed these letters of Mr. Schneider.

Mr. Straus made a representation to me that he had given me all the letters.

I come to court this morning and he doesn't even call me up yesterday.

MR. STRAUS: That's not correct. I indicated

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2 to Mr. Sassower that those were all the letters
3 that we had with us at this time. I would check
4 our files. If there were any additional letters,
5 I'd provide them to him and I've complied with
6 that and we have searched our files and have
7 located additional papers. In fact, our offer
8 was limited to correspondence.

9 I've given Mr. Sassower a document, unsigned,
10 and undated because it was my understanding
11 that Mr. Schneider prepared it; the record itself,
12 I'm sure, will contain my offer.

13 In good faith we attempted to provide
14 Mr. Sassower with all the correspondence that
15 we could and we made it clear that we might have
16 other correspondence and would make a good faith
17 effort to provide it and in compliance with
18 that, we have done so.

19 MR. SASSOWER: Your Honor, I'd ask only
20 one request.

21 I generally obey what judges say to me, but
22 I make one request of Mr. Straus to your Honor,
23 I ask your Honor to ask Mr. Straus to contact
24 Mr. Edmunds and I think if he contacts Mr. Ed-
25 munds, he'll find that the conversation between

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2 Mr. Edmunds and Mr. Straus took place before
3 I had a conversation with Mr. Edmunds and it
4 was only after they spoke to Mr. Straus that Mr.
5 Straus said to me, and I spent until five o'clock
6 there, and he said there is no reason, and we
7 agreed, there is no reason why you need the
8 judge's signature.

9 THE REFEREE: I've ruled, sir, period. Next.

10 MR. STRAUS: May we call Mr. --

11 MR. SASSOWER: I'm prejudiced. I sent my
12 daughter around yesterday. She took off from
13 work to go around to serve subpoenas.

14 I need this information, your Honor, for
15 cross-examination.

16 THE REFEREE: Sir, you will submit the
17 subpoenas that you request to me and I will
18 peruse them and determine whether or not they are
19 valid in its entirety or partially.

20 MR. SASSOWER: Your Honor does not know
21 the case. That's why I quote Judge Corso's
22 decision, Edgehoe Realty Co.

23 I've tried well over a thousand cases and
24 I must have served at least several thousand
25 subpoenas and I have never had a judge so order

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2 a subpoena except where required by the CPLR
3 and formerly the CPA, so, this is a new rule
4 for this proceeding and, I say, your Honor, if
5 anything, leniency should be given to the
6 Respondent and not make greater restrictions
7 than I would have in civil court on a \$10,000
8 claim.

9 MR. STRAUS: May we have Mr. Schneider
10 resume the stand at this time?

11 THE REFEREE: Yes.

12 DONALD F. SCHNEIDER, recalled,
13 resumed the stand and testified as follows:

14 THE REFEREE: You are still under oath.

15 MR. STRAUS: Your Honor, before the
16 cross-examination resumes action, I renew my
17 request Mr. Schneider be permitted to clarify
18 one point in his testimony.

19 THE REFEREE: Yes.

20 THE WITNESS: Thank you, your Honor.

21 At the last session Mr. Sassower asked me a
22 question to the effect of whether my client had
23 sought criminal contempt sanctions against him
24 in the first contempt proceeding before Judge
25 Evans, brought in October of 1982, and, I recall

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2 that my answer was something to the effect that
3 I did not recall specifically asking for criminal
4 contempt sanctions at that time.

5 Subsequent to my testimony, I reviewed my
6 firm's files and found that in settling an order
7 in that first contempt proceeding my client had
8 asked for criminal contempt sanctions.

9 I wanted to correct the record to reflect
10 the accurate statement.

11 THE REFEREE: Cross-examination.

12 CROSS EXAMINATION

13 BY MR. SASSOWER:

14 Q Mr. Schneider, may I see copies of the letters
15 the Grievance Committee sent to you?

16 A I was not asked to bring them today, if, in fact,
17 such a letter exists and I don't recall any specific letter.

18 MR. SASSOWER: Mr. Straus, can you let me
19 see them?

20 MR. STRAUS: What is it that you want?

21 MR. SASSOWER: I want to see the correspon-
22 dence to Mr. Schneider.

23 THE REFEREE: What correspondence?

24 MR. SASSOWER: I have the correspondence
25 from Mr. Schneider to the Grievance Committee.

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2 I want to see the correspondence from
3 the Grievance Committee to Mr. Schneider, and
4 it has a very, very important point in this
5 litigation.

6 MR. STRAUS: We don't have the correspon-
7 dence.

8 If Mr. Sassower wanted correspondence from
9 us to Mr. Schneider, he could have asked us for
10 it one way or another and I'm sure we'd have no
11 trouble complying.

12 MR. SASSOWER: Would you please bring it
13 this afternoon?

14 MR. STRAUS: If we can locate them.

15 THE WITNESS: If any existed. I have no
16 specific recollection of receiving any corres-
17 pondence.

18 MR. STRAUS: My recollection is they would
19 relate to acknowledgement of his complaint and
20 asking --

21 MR. SASSOWER: Whatever it is.

22 MR. STRAUS: I don't know what important
23 point they are going to relate to you but
24 whatever we have, we'll bring this afternoon,
25 if your Honor please.

MR. SASSOWER: Thank you.

MR. STRAUS: I'm assuming that's your Honor's direction.

THE REFEREE: I'll so order it.

Q Did you have any telephone conversations with Mr. Straus or the committee from the time you first communicated with them until the present time?

A Concerning you, Mr. Sassower?

Q Yes.

A Yes, I have.

Q Did you make notes of those conversations?

A No, I didn't.

Q Did you see a draft or the final copy of the complaint in this matter before it was sent out to be served?

A Yes, I did.

Q Did you read it?

A Yes, I did.

Q Did you make any corrections?

A I discussed my thoughts with counsel for the Grievance Committee.

Q And after you discussed it with counsel for the Grievance Committee, were any changes made?

MR. STRAUS: I'll object at this point,

1
2 your Honor. The pleadings are something on
3 which the factual issues are to resolve.

4 How the pleadings got drafted does not
5 seem to be relevant to the testimony as to
6 what Mr. Sassower is alleged to have done.

7 MR. SASSOWER: Your Honor, it will all --
8 I've been trying cases for thirty-five years
9 and --

10 THE REFEREE: Don't make speeches. You
11 have tried a thousand cases.

12 That has nothing to do with whether or not
13 the position at this point is correct or not.

14 What's the relevance?

15 MR. SASSOWER: I'll save it for some later
16 point.

17 Q Mr. Schneider, the petition as it is before the
18 Court, is it correct to your best knowledge?

19 MR. STRAUS: I'll object. That's too broad.

20 THE REFEREE: Is it what?

21 Q If you were asked to verify this petition, would
22 you verify this petition without any changes?

23 MR. STRAUS: Objection.

24 THE REFEREE: Sustained.

25 Q Mr. Schneider, do you assert that the schedule

1
2 annexed to the petition with the additional schedules
3 are true and correct?

4 A In what respect?

5 Q Are they accurate as to the information contain-
6 ed on the schedules?

7 MR. STRAUS: It is my understanding --

8 MR. SASSOWER: Mr. Straus, please.

9 THE REFEREE: Wait, Mr. Sassower. He's not
10 involved in everything.

11 MR. SASSOWER: Yes, he is.

12 THE REFEREE: In all of the charges?

13 MR. SASSOWER: Yes. He drew up the schedules,
14 in all probability.

15 MR. STRAUS: Objection.

16 THE REFEREE: The schedule for the Grievance
17 Committee, he drew them up?

18 MR. SASSOWER: Yes.

19 MR. STRAUS: Objection. If Mr. Sassower wants
20 to testify --

21 THE REFEREE: Objection sustained.

22 Q Did you draw up schedules for the Grievance
23 Committee?

24 THE REFEREE: Now you are talking about
25 schedules. A moment ago you talked the schedule.

1
2 MR. SASSOWER: Schedules.

3 THE REFEREE: Which?

4 MR. SASSOWER: The schedules annexed to
5 the petition plus the additional schedules.

6 THE REFEREE: Did you see any schedules an-
7 nexed to the petition?

8 THE WITNESS: I've never seen schedules
9 attached to the petition.

10 MR. SASSOWER: Have you got Exhibit 10
11 and 11, Mr. Straus, please?

12 THE REFEREE: Just for the record, you are
13 not a member of the Grievance Committee, are
14 you?

15 THE WITNESS: No, I'm not.

16 MR. STRAUS: May the record indicate that
17 the exhibits requested are being handed to
18 Mr. Sassower.

19 MR. SASSOWER: I show you Petitioner's
20 Exhibit 9 and 10.

21 THE REFEREE: Are they already in evidence?

22 MR. STRAUS: They're for identification,
23 your Honor, I believe. I think they're 10 and 11.

24 THE REFEREE: Petitioner's Exhibits 10 and 11,
25

Schedule 1, an addition to Schedule 1.

Q Did you supply this information for the Grievance Committee to Mr. Straus?

MR. STRAUS: Objection, "this information."

I'm not sure what the question refers to.

Q Whatever is contained on Schedule 10 or Exhibit 10 and Exhibit 11, whatever it says, the name of the case, what court and whatever other information contained on those exhibits, is that the information that you gave to the Petitioner in this matter? Yes or no.

MR. STRAUS: "The information"?

A I did not supply these schedules verbatim. I supplied the Grievance Committee with various materials relating to your litigation which is on these schedules.

Q Are you saying, Mr. Schneider, that those schedules, Exhibits 10 and 11, contain information that you gave to the Petitioner? Yes or no.

A They may contain some of the information that I gave to the Petitioner.

Q But you don't know if it is accurate or inaccurate.

A I didn't say that.

THE REFEREE: What's inaccurate?

MR. SASSOWER: The information contained on

those schedules.

A I previously testified, Mr. Sassower, with respect to certain -- direct examination with respect to certain questions that were propounded to me by Mr. Strauss that certain information on here accurately reflected litigation that you had brought.

Q Mr. Schneider, when you first communicated with the Grievance Committee in writing, which, according to the documents given to me by Mr. Strauss was on November 30, 1984, had any judge said in any decision or order that I had violated the order of Madam Justice Hilda Schwartz?

MR. STRAUS: Unless the witness understands and can respond to the question, I'm going to object because it's so long and complicated.

I don't want an answer which comes, which isn't responsive.

THE REFEREE: If the witness understands the question.

THE WITNESS: Could you repeat it, please?

Q On November 30, 1984, when you first communicated with the Grievance Committee in writing, as of that date, is there any decision or order of any judge that says George Sassower violated the order of Madam Justice

Hilda Schwartz?

A There are a number of decisions --

Q Yes or no?

A -- which recognize that you purported to represent Puccini which representation does violate the order of Justice Schwartz.

Q Excuse me. Show me one order, one decision as of November 30, 1984 which says George Sassower is violating the order of Judge Schwartz, one.

MR. STRAUS: Objection.

MR. SASSOWER: Excuse me?

MR. STRAUS: I'd like, at this point, to make my objection for this reason, Mr. Sassower is referring to a letter of complaint.

We're dealing with a petition with formal charges.

He seems to be confusing the two. What is charged in the petition may not necessarily be what Mr. Schneider raised in his original letter of complaint and I don't think there should be any confusion on Mr. Sassower's part or on the part of the record with respect to this.

They are two distinct and different items.

THE REFEREE: The schedules were drafted by

the Grievance Committee and not by Mr. Schneider.

MR. STRAUS: That's correct.

THE REFEREE: Mr. Schneider may have supplied information which then resulted in action taken by the Grievance Committee.

MR. STRAUS: That's correct.

THE REFEREE: And they may have also had information supplied by other persons.

MR. STRAUS: That's correct.

THE REFEREE: Go ahead.

MR. SASSOWER: I'm asking a very simple question.

Q As of November 30 --

THE REFEREE: He's already answered.

MR. SASSOWER: I want a specific judge or a specific decision.

THE REFEREE: Sir --

MR. SASSOWER: Excuse me, your Honor.

THE REFEREE: -- he's already answered it "Yes."

Q Mr. Schneider, can you give me a specific judge, a specific decision, a specific order as of November 30, 1984, where a judge said "George Sassower violated the order of Hilda Schwartz"? Yes or no.

MR. STRAUS: Objection. It's four questions.

THE REFEREE: Sustained.

MR. SASSOWER: On what grounds, if your Honor please?

THE REFEREE: He's not the witness to talk to.

MR. SASSOWER: Who am I supposed to talk to?

THE REFEREE: The Grievance Committee.

MR. SASSOWER: Did they give me a bill of particulars?

Did they give me pre-trial disclosure?

Did they give me anything? They said they will await a referee to be appointed. It was January 30 and that was it.

I mean, Mr. Straus, can you put on the record as of November 30, 1984, what judge, what court, what decision, what order said George Sassower is violating the order of Judge Hilda Schwartz?

MR. STRAUS: I don't know where Mr. Sassower gets the date of November 30, '84, because the petition covers a period of some six years beginning in 1980.

THE REFEREE: Is Mr. Sassower being charged with violating an order of Justice Hilda Schwartz?

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2 MR. STRAUS: I believe so.

3 THE REFEREE: What's the date of that
4 order?

5 MR. STRAUS: Of 1980, I believe. It's in
6 evidence, and, again, we have said this over
7 and over again, the order of the judges are in
8 evidence.

9 The actions that Mr. Sassower brought are
10 in evidence.

11 Mr. Sassower, the order of Justice Schwartz
12 is already in evidence, the first exhibit,
13 Petitioner's Exhibit 1 and her order was entered
14 September 11, 1980.

15 MR. SASSOWER: Then I --

16 THE REFEREE: Not November 30, 1984.

17 MR. SASSOWER: Okay, fine. I'll do it that
18 way, your Honor.

19 Q Mr. Schneider, do you have one decision from
20 one judge from September 11, 1980 or whatever the date
21 was, to this day, that specifically states George Sassower
22 violated the order of Judge Schwartz?

23 A Yes, I believe I do.

24 Q Give us a -- show us that order.

25 A I can describe the order.

THE REFEREE: The order --

MR. SASSOWER: The order that says that I violated it.

THE WITNESS: Your Honor, I have some recollection of the decision of which Mr. Sassower --

MR. SASSOWER: Just give us the order.

THE REFEREE: Let him answer the question, sir.

You go ahead, Mr. Schneider.

A In 1982 Mr. Judge Greenfield issued a decision granting the receiver's motion to permanently enjoin Mr. Sassower from purporting to represent Puccini Clothes improperly.

In that decision Mr. Judge Greenfield refers to the fact that Mr. Sassower had been discharged from representing Puccini by Judge Schwartz' decision and as a result granted a permanent injunction against Mr. Sassower.

Q No, no, no, this is your assumption.

MR. STRAUS: Object to such remarks.

THE REFEREE: Mr. Sassower he didn't say it was an assumption.

He said that Justice Greenfield in 1982 so ordered it.

MR. SASSOWER: Okay.

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2 Q Do you have a copy of the order here or the
3 decision here which says that Mr. Sassower is violating
4 the order of Judge Schwartz? Yes or no.

5 A I was not asked by any lawful authority to bring
6 such a decision with me.

7 There have been over three hundred decisions
8 against Mr. Sassower.

9 Q Do you know of any other decision of any other
10 judge that says that George Sassower violated the order
11 of Judge Schwartz? Yes or no.

12 MR. STRAUS: Objection, your Honor.

13 THE REFEREE: You asked him for what order.
14 The witness testified, yes, in 1982, order was
15 granted by Justice Greenfield.

16 Now you want to know if there are any other
17 orders that he's familiar with.

18 MR. SASSOWER: Right.

19 THE REFEREE: Do you know of any other orders?

20 THE WITNESS: I believe there have been a
21 number of decisions in which Mr. Sassower's
22 improper representation of Puccini Clothes
23 after Judge Schwartz' order was recognized.

24 Q Do you have any decision of any judge or any
25 court that says, not what you say or what you recognize?

Any judge that says --

MR. STRAUS: Objection. The witness answered that very same question.

THE REFEREE: He just said in decision to Justice Greenfield's order there are other decisions.

MR. SASSOWER: Can I know what they are, your Honor?

THE REFEREE: Ask him.

MR. SASSOWER: Fine.

Q What are they, or I'll tell you better still --

THE REFEREE: Do you know offhand?

THE WITNESS: Your Honor, there have been over three hundred decisions in this case.

MR. SASSOWER: You'll bring them back this afternoon or tomorrow.

MR. STRAUS: I don't think --

MR. SASSOWER: You'll bring them this afternoon or tomorrow.

MR. STRAUS: I don't think he has to.

THE REFEREE: Nobody asked him to.

Q Mr. Schneider, let me ask you this, did you not submit papers to various judges to hold me in contempt based, among other things, on Judge Schwartz' order, and

1 weren't those criminal contempts dismissed? Yes or no.

2 MR. STRAUS: Objection.

3 A No, I did not bring any contempt proceedings
4 based on a violation of that order.

5 The receiver brought the criminal contempt
6 proceedings based on your violation of Judge Greenfield's
7 injunction.

8 Q Now, has any judge specifically stated by any
9 order or any decision that I violated Judge Greenfield's
10 order?

11 MR. STRAUS: Objection.

12 Q Yes or no?

13 A You were convicted.

14 MR. STRAUS: Objection. Please permit me.

15 THE REFEREE: Objection overruled. Go ahead.

16 MR. STRAUS: If your Honor please, let
17 me state this point because I think that it is
18 important to the entire conduct of this proceed-
19 ing.

20 There are certain orders which have been re-
21 ceived in evidence.

22 There's certain additional evidence that
23 Mr. Sassower -- and, there's direct testimony
24 he violated those orders.
25

There are decisions holding him in contempt and there are documents.

I believe it is your function as the Referee to compare the orders to the facts for you to make a determination whether there's been a violation of the order.

I don't believe that prior rulings of other judges unless they happen to consist of a criminal contempt conviction which Mr. Sassower is charged with, must or should rely upon any other rulings by any other judges based on these documents.

I think the decision is for you to make.

THE REFEREE: Will the Court Reporter read the question back?

(The question was read)

THE REFEREE: That objection is sustained.

MR. SASSOWER: On what grounds?

THE REFEREE: It is not his function as to what other judges said.

MR. SASSOWER: I'm asking if it exists.

THE REFEREE: He was the attorney for the receiver and he testified that the receiver brought a criminal contempt proceeding against

1
2 you based on a judge's decision which barred
3 you from representing Puccini Clothes.

4 MR. SASSOWER: I was just -- I'm saying
5 that every judge rejected that.

6 THE REFEREE: All right. What do you want
7 from him?

8 MR. SASSOWER: I want to get that testimony
9 from Mr. Schneider.

10 THE REFEREE: How would he know?

11 MR. SASSOWER: He was involved in every one
12 of them.

13 THE REFEREE: Objection sustained.

14 MR. SASSOWER: Let me say one thing further,
15 your Honor, and I don't have the transcript, and
16 I'm speaking from memory, but I think my memory
17 is pretty good, I asserted to your Honor at
18 the conference that if the contentions that a
19 violation of a judge's order is a serious crime,
20 then the Constitution of the United States re-
21 quires that it be a jury trial and Mr. Straus
22 said, "Are you kidding?" Something to that effect.

23 Your Honor, there are a few decisions
24 specifically on point.

25 MR. STRAUS: I'll object at this point.

We're taking testimony from a witness.

This is not a time for a possible hearing summary.

THE REFEREE: Mr. Sassower, you have already submitted a trial memorandum for me, so let's go on.

Continue with your cross-examination, sir.

MR. SASSOWER: I have no bill of particulars, your Honor.

I'd like to know who's deciding this case.

I'm saying that if no judge -- excuse me -- let me finish my statement for the record.

The Supreme Court of the United States in an early case on contempt made the statement, quote, "Where judges disagree, there cannot be any contempt."

MR. STRAUS: Objection.

MR. SASSOWER: Let me finish.

MR. STRAUS: This has nothing to do with Mr. Schneider's testimony.

THE REFEREE: Mr. Sassower, all you desire to do is give me a lecture and I don't need that lecture.

MR. SASSOWER: I'm saying this, your Honor,

1
2 that if no Judge found me --

3 MR. STRAUS: I'll object to your continual
4 inserting this into the record.

5 THE REFEREE: Mr. Straus, please. What
6 relevance is that to this witness?

7 MR. SASSOWER: I'll -- very well.

8 THE REFEREE: He has nothing to do with
9 any decision of any judge.

10 MR. SASSOWER: Wait a second, your Honor.
11 If this man testified that Judge "A", "B" and
12 "C" did not find me violating Judge Schwartz'
13 order --

14 THE REFEREE: Sir, he may very well say it
15 and I may find otherwise.

16 MR. SASSOWER: The Supreme Court of the
17 United States says that where judges disagree,
18 you cannot have criminal contempt.

19 Now, your Honor, as a matter of law, as a
20 matter of law, if your Honor were to disagree
21 with the other judges, which your Honor has a
22 right to do, which your Honor has a right to do,
23 but, once --

24 MR. STRAUS: Objection.

25 THE REFEREE: Mr. Straus, please.

1
2 MR. STRAUS: Is this going to go on for-
3 ever?

4 THE REFEREE: It's not going to go on forever.
5 This is the second day of our hearing.

6 MR. STRAUS: This is the eighteenth time
7 that he's raised the same point and he's been
8 instructed that it's inappropriate.

9 THE REFEREE: Mr. Sassower, may I strongly
10 suggest that you continue with your cross-examinat-
11 ion?

12 MR. SASSOWER: May I cite the case?

13 THE REFEREE: There's no sense citing cases.

14 MR. SASSOWER: Let me put it for the record.

15 California against Molitor, M-O-L-I-T-O-R,
16 113 US 50, either 609 or 605. I'm sorry, it's
17 609.

18 THE REFEREE: Let's continue, sir.

19 MR. SASSOWER: On Page, on Page 618, the
20 Court said --

21 MR. STRAUS: Your Honor, this is cross-exami-
22 nation. Your Honor, I'm asking you to handle it.

23 THE REFEREE: Have a little patience, please.

24 MR. SASSOWER: May I finish my statement?
25

THE REFEREE: Go on with cross-examination.

CROSS EXAMINATION

BY MR. SASSOWER:

Q Mr. Schneider, in all your files except for what you say Judge Greenfield stated, do you have any other judge which stated that I violated the order of Judge Schwartz?

MR. STRAUS: Objection.

Q Yes or no?

THE REFEREE: Does he have any other judge?

Q Any other decision or order which states that I violated the order of Judge Schwartz.

MR. STRAUS: It's irrelevant and immaterial to this proceeding.

THE REFEREE: In any event he's already answered the question.

MR. SASSOWER: What's the answer, your Honor?

MR. STRAUS: I've objected to the question. It's been asked and answered.

It's objectionable in the first instance.

THE REFEREE: He does not have the decision with him but in addition to Justice Greenfield there were other decisions.

MR. SASSOWER: Fine. Will your Honor direct

1
2 Mr. Schneider or Mr. Straus --

3 THE REFEREE: He doesn't have to bring any-
4 thing.

5 He's not the Grievance Committee. He's --

6 MR. SASSOWER: Then let the Grievance
7 Committee tell me what judge said I violated --

8 THE REFEREE: Let's go on with this witness.

9 MR. SASSOWER: Am I not to have some
10 specificity here? Am I not allowed some partic-
11 ulars?

12 A man says "yes" --

13 THE REFEREE: We started this morning at
14 9:30 and it is seven minutes after 11.

15 I venture to say that out of this hour
16 and thirty-seven minutes you took at least an
17 hour of speeches.

18 MR. SASSOWER: The speeces were contained
19 because Mr. Straus pulls these last minute stunts.

20 THE REFEREE: Sir, please.

21 MR. SASSOWER: I'll go on.

22 THE REFEREE: I've been patient with you, but
23 don't take advantage of the fact that I'm patient.

24 Q Can you point to any judge or any court --
25 I'm sorry -- any judge, stating that I violated the order

of Judge Greenfield?

MR. STRAUS: Objection.

THE REFEREE: Asked and answered.

MR. SASSOWER: Judge Greenfield. This was Schwartz, Judge, saying Judge Greenfield -- may I please know a judge who says that I violated Judge Greenfield's order?

THE REFEREE: Sir, that's not his function.

MR. SASSOWER: You're bringing in Petitioner's hearsay.

THE REFEREE: Sir, this case will be decided by me and not decided by me on hearsay.

It will be decided on evidence adduced at this hearing.

Q Mr. Schneider, did you bring proceedings against me to hold me in criminal contempt?

MR. STRAUS: He's answered that four times.

THE REFEREE: He said no, that the receiver did.

MR. SASSOWER: The receiver did. I'm sorry.

Q Did the receiver or anybody else ever bring criminal contempt proceedings against me based upon the allegations that I was violating Judge Greenfield's order? Yes or no.

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A Yes.

Q Did any, any judge in those proceedings --

MR. SASSOWER: Withdrawn.

Q Tell us which judges, the dates that the judges said that I was violating Judge Greenfield's order?

MR. STRAUS: Objection. If we fail in our proof to demonstrate that Mr. Sassower violated these orders then we've failed, but it does not require any rulings by any other judges on any other occasions.

THE REFEREE: It's not for this witness.

MR. SASSOWER: I'm saying that's probative, that --

THE REFEREE: Sustained.

MR. SASSOWER: Your Honor, may I --

THE REFEREE: Objection sustained.

MR. SASSOWER: May I, for the record --

THE REFEREE: Next question.

MR. SASSOWER: May I state that the Appellate Division may feel --

THE REFEREE: I'll worry about what the Appellate Division will feel.

MR. SASSOWER: I'll have to worry about it. Your Honor gets paid for this. I have my license

1
2 at stake. I want to produce a record that
3 is crystal clear.

4 THE REFEREE: His Honor is not getting paid.

5 MR. SASSOWER: I know it's a nominal amount.

6 THE REFEREE: Proceed.

7 MR. SASSOWER: Will your Honor permit me
8 to have a bill of particulars?

9 THE REFEREE: Let's go on.

10 MR. SASSOWER: Excuse me, your Honor.

11 THE REFEREE: Sir --

12 MR. SASSOWER: The petition alleges --

13 THE REFEREE: Mr. Sassower, the petitioner
14 served you with the charges in this case.

15 You had every right to ask for it. I'm sure
16 you did, for a bill of particulars.

17 MR. SASSOWER: I did and I didn't get it.

18 THE REFEREE: You didn't get it so it's not
19 going to be in evidence, so what are you worried
20 about?

21 MR. SASSOWER: No, no, no, I have to be pre-
22 pared, your Honor.

23 THE REFEREE: Next question.

24 Q Do you have, Mr. Schneider, the other order of
25 Judge Gammerman dated January 23rd, 1985, with you?

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A I was not asked to bring any orders.

Q What do you mean asked? You were served with a subpoena.

THE REFEREE: Do you have it, yes or no?

THE WITNESS: I don't have it with me.

THE REFEREE: Next question.

MR. SASSOWER: You'll have to bear with me, your Honor, I'll have to find it.

THE REFEREE: All right.

Q Did you bring a copy of this record on appeal? You were asked to bring this last Thursday and you said you would bring it, a clean copy, Mr. Schneider.

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

Q Your appeal to the Appellate Division from the order of Judge Stetcher and the order of Judge Sinclair, did you bring a copy of the record on appeal?

I asked you and his Honor asked you.

MR. STRAUS: Do you want an answer to the question? Does he have it?

THE REFEREE: Do you have copies of those?

THE WITNESS: I'm not one hundred percent sure of what Mr. Sassower is referring to, but I don't have any records on appeal with me today.

Q His Honor asked you to bring it also.

MR. SASSOWER: Would you mark this for identification, please, sir? A six-page document, sir, for identification.

(Received, so marked)

Q Do you recognize that document, Mr. Schneider?

A Will you show it to me?

Q Yes.

(Shown to the Witness)

A I believe I do.

Q Could you tell us what it is, sir?

MR. STRAUS: I think it should be offered in evidence if he is going to be asked to describe it.

MR. SASSOWER: Mr. Straus, please.

MR. STRAUS: That's my objection, sir.

THE REFEREE: Objection overruled.

A It appears to be an order signed by Judge Gammerman on January 23, 1985.

Q What else do these six sheets contain?

THE REFEREE: Now, you are going into the document itself and it's not in evidence.

MR. SASSOWER: The order was only two pages.

THE REFEREE: He may look at it to refresh

his recollection. Do you want the document?

Offer the document?

Q What else is it besides an order of Judge Gammerman?

A Do you want me to characterize my belief?

MR. STRAUS: I think it should be offered in evidence.

Q Didn't you prepare it?

MR. STRAUS: It should be offered in evidence.

THE REFEREE: Did you bring this?

MR. ~~SASSOWER~~^{SUN}: My office prepared it.

THE REFEREE: His office prepared it.

Q Can you fully describe what the document is?

A There is a two-page notice of settlement of order. There's a two-page order, and, by the way, this notice of settlement of order does not -- was never appended to the original signed order because, as you know, when you settle an order you don't have a signed order as you do here, so, this is never a document that -- these documents never went together and were never served that way. There are two affidavits of service as well.

Q The affidavit of service which I think is the last page, may I see it?

THE REFEREE: Mr. Sassower, we're not going

1
2 to re-litigate an affidavit of service.

3 MR. SASSOWER: Judge, please bear with me.

4 THE REFEREE: It's not a question of bearing
5 with you.

6 I'll bear with you when a matter is relevant.

7 Q Has it ever been asserted that that the affidavit
8 of service on Hyman Raffe was false and perjurious?

9 MR. STRAUS: Objection.

10 THE REFEREE: Sustained.

11 MR. SASSOWER: Judge, they are bringing in
12 the Gammerman order, and I'm going to show your
13 Honor the whole thing is based upon fraud, perjury,
14 non-service. Just bear with me. I'm coming to
15 the point.

16 MR. STRAUS: Objection.

17 THE REFEREE: You don't get to the point.

18 MR. SASSOWER: You go one step at a time,
19 you go one step at a time. It will all be tied
20 in, your Honor.

21 MR. STRAUS: I would --

22 MR. SASSOWER: Your Honor has an idea
23 what it's all about at this point.

24 MR. STRAUS: Mr. Sassower, I'm sure you can
25 outshout me but based on your representation

that you were going to show that an order was based on fraud and inappropriate, any questions in furtherance of that line are inappropriate.

It's not for this Court to decide whether an order issued by a judge of the Supreme Court of New York County was invalid.

That's not the function of the Referee.

The Referee must take orders that have been entered as orders that have been entered.

THE REFEREE: I've already indicated that to both parties during the pre-trial conference.

MR. SASSOWER: Your Honor, let's go right to the point.

THE REFEREE: Sir, objection is sustained.

MR. SASSOWER: I ask for your Honor's recusal and I want to make a record of this.

THE REFEREE: Wait, we're going to go one step at a time.

Your motion for me to recuse myself is denied. All right.

MR. SASSOWER: May I make a record of it?

THE REFEREE: As far as the objection to this question, objection is sustained. Go ahead.

MR. SASSOWER: May I make a record?

1
2 Your Honor stated at the January 30th
3 conference, Mr. Straus made a statement and
4 before I could even say a word, as to every
5 statement Mr. Straus made, your Honor agreed
6 without ever hearing me.

7 Then your Honor stated --

8 THE REFEREE: Wait --

9 MR. SASSOWER: Let me finish.

10 THE REFEREE: Mr. Sassower --

11 MR. SASSOWER: Let me finish.

12 THE REFEREE: -- I'm not going to let you
13 finish.

14 MR. SASSOWER: Then it's a half truth.

15 Then your Honor stated --

16 Let me give you the other half of the truth..

17 Then your Honor stated, and I, again, I
18 can't give you the exact words -- "I give you
19 authority" or "If I convince you" --

20 THE REFEREE: So far you haven't given me
21 any authority except your own authority. Continue,
22 sir.

23 MR. SASSOWER: Did I give your Honor a brief
24 this morning?

25 THE REFEREE: So what? There's nothing in

this brief which would in any way induce me to change my opinion, my mind on this particular subject.

MR. SASSOWER: Would your Honor mark the brief for identification, please?

THE REFEREE: Pardon?

MR. SASSOWER: Would you mark the brief for identification, please?

THE REFEREE: Incidentally, did you serve a copy of this brief upon Mr. Straus?

MR. STRAUS: Yes, I have a copy here.

THE REFEREE: It will be Respondent's Exhibit E for identification.

(Received and so marked)

MR. STRAUS: Incidentally, your Honor, if you wish, I have a copy of the pre-hearing conference held on January 30. I have the transcript here, if your Honor wishes to mark this as a Referee's Exhibit.

I don't know what Mr. Sassower is talking about, having read this transcript.

THE REFEREE: I have my own notes on it. Go ahead.

(Received and marked)

MR. SASSOWER: May I state for your Honor that the pleadings, the answer, specifically state that the order relied upon are void based upon -- they were secured by extrinsic fraud.

If Mr. Straus felt that there was no basis in law or fact to those defenses, Mr. Straus was at liberty to move the Appellate Division to strike those defenses. He did not.

Mr. Straus is still at liberty to, if he so desires to strike those defenses and as long as those defenses are in this case, I respectfully state, your Honor, as a Referee, to report your Honor has no authority to, sua sponte, which is approximately what it is, strike defenses.

THE REFEREE: All right. Next question.

MR. SASSOWER: Due process -- how was that the signature on that order secured?

MR. STRAUS: Objection.

MR. SASSOWER: I am saying it is totally null and void.

MR. STRAUS: Objection, sir. You can't testify. You can ask questions. When you take the witness stand you can testify.

I'm objecting to your question and I'll

await Judge Potoker's ruling as you will, sir.

MR. SASSOWER: As to form or substance?

MR. STRAUS: I'm objecting to the question, sir.

MR. SASSOWER: I don't know if it's to form or substance.

MR. STRAUS: Both.

THE REFEREE: Objection is sustained.

MR. SASSOWER: May I know the grounds, so --

THE REFEREE: Sir, you want to go behind the order?

MR. SASSOWER: No, your Honor. No, your Honor.

Your Honor, I'm saying, your Honor, that they are not orders.

In fact, I'll state this, your Honor, if your Honor looks at this, it is not an order.

THE REFEREE: Sir, as far as this witness is concerned, he's the witness to inquire about.

MR. SASSOWER: Who's the witness that would --

THE REFEREE: That's your case, not mine.

MR. SASSOWER: I'm saying that's not an order and I can prove it to your Honor.

MR. STRAUS: Are you offering an order

1
2 that's invalid?

3 MR. SASSOWER: According to Jerusma against
4 Jerusma (phonetic) they say it is not an order

5 MR. STRAUS: Mr. Sassower, the question is
6 whether any of those received in evidence against
7 you are invalid and no court has ever ruled
8 that any of them are invalid. You --

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

10 MR. STRAUS: You can't show me why.

11 THE REFEREE: Mr. Sassower --

12 MR. SASSOWER: Please let me develop my
13 case.

14 THE REFEREE: Continue.

15 MR. SASSOWER: I'll ask the questions and
16 make objections and let the record speak for it-
17 self.

18 THE REFEREE: That's right.

19 MR. SASSOWER: Okay.

20 Q As a litigating attorney --

21 MR. SASSOWER: May I, your Honor?

22 THE REFEREE: Yes. It's not in evidence.

23 Q Do you claim, your claim, that that document
24 is wholly invalid?

25 MR. STRAUS: Objection.

1 THE REFEREE: Sustained.

2
3 MR. SASSOWER: I'd like to know what the
4 orders are.

5 THE REFEREE: Sustained.

6 MR. SASSOWER: That's not an order, your
7 Honor.

8 THE REFEREE: Sustained.

9 MR. SASSOWER: Did your Honor look at it?

10 THE REFEREE: Sir --

11 MR. SASSOWER: Did you look at it?

12 MR. STRAUS: It's not in evidence, Mr. Sassow-
13 er.

14 Q Did you ever represent that document or portions
15 of that document to any judge as being a valid order?

16 MR. STRAUS: Objection. My objection is
17 on the grounds of relevance and materiality.

18 I don't know how this order relates to
19 the ten with which he's charged with violating.

20 THE REFEREE: Did you ever use this order
21 seeking another order?

22 THE WITNESS: As I previously testified,
23 this is a manufactured document. He put together
24 things that don't go together.

25 THE REFEREE: Just the order itself.

MR. SASSOWER: May the record show --

THE REFEREE: Please.

MR. SASSOWER: -- may the record show that
I asked --

THE REFEREE: Let the witness answer.
You are not going to interfere with everybody
here.

A I don't recall.

THE REFEREE: Next question.

Q Did you not send letters to one or two judges
and answer a calendar in Special 1 and tell the judges to
abort three motions based upon this document?

MR. STRAUS: Objection.

THE REFEREE: Overruled.

THE WITNESS: Your Honor, I have difficulty
answering because I don't understand, first of all
what he means by abort motions.

THE REFEREE: All right, rephrase your
question.

MR. SASSOWER: Okay.

THE REFEREE: While you're looking at the
document, we'll take a five minute recess.

(short recess ensues)

THE REFEREE: Continue cross-examination.

1
2 MR. SASSOWER: May I have Exhibit 8,
3 please?

4 THE REFEREE: Eight?

5 MR. SASSOWER: Yes.

6 THE REFEREE: Judge Gammerman's permanent
7 injunction dated January 23rd.

8 MR. SASSOWER: Same date as the prior docu-
9 ment.

10 THE REFEREE: You said Petitioner's Exhibit 8.

11 MR. SASSOWER: Right.

12 Q Mr. Schneider, Petitioner's Exhibit 8 and
13 Respondent's Exhibit D are both dated the same date; is
14 that correct?

15 MR. STRAUS: Objection.

16 THE REFEREE: Sustained.

17 MR. STRAUS: That's for identification.

18 THE REFEREE: It will speak for itself.
19 You're holding the document in your hand.

20 MR. SASSOWER: I'm bringing up a subject,
21 okay?

22 Q Are they the same dates?

23 THE REFEREE: He doesn't have it in front
24 of him.

25 MR. STRAUS: If your Honor please, one

1
2 of those documents that he is referring to is
3 not in evidence.

4 THE REFEREE: Which one?

5 MR. STRAUS: I believe Respondent's D is
6 for identification and he's asking him to compare
7 it with a document which is in evidence.

8 Q Do you know when each was signed?

9 MR. STRAUS: Objection.

10 THE REFEREE: The documents will speak for
11 themselves.

12 MR. SASSOWER: One is not in evidence.

13 THE REFEREE: Then he can't testify to it.

14 Q Now, on its face, as a litigating attorney, Mr.
15 Schneider, on its face, are there any parts of Petitioner's
16 Exhibit 8 which you will concede is invalid?

17 MR. STRAUS: Objection.

18 THE REFEREE: Sustained. Next question, sir.

19 Q Mr. Schneider, are there -- is there any part
20 of Petitioner's Exhibit 8 for reasons, not on the face of
21 the document which you will concede is invalid?

22 MR. STRAUS: Objection.

23 THE REFEREE: Sustained.

24 Mr. Schneider, does Petitioner's Exhibit 8
25 purport to bind the --

1
2 MR. SASSOWER: Withdrawn.

3 Q Am I correct that in the fourth title of
4 Petitioner's Exhibit 8, am I correct that the defendant
5 the Arutt, A-R-U-T-T firm is represented by the firm of
6 Damato and Lynch?

7 MR. STRAUS: Objection. The document will
8 speak for itself. It's in evidence.

9 MR. SASSOWER: Fine. Let me make the record.

10 THE REFEREE: The document is in the record.

11 MR. SASSOWER: But, your Honor, there are
12 judges and people who have conceded this
13 document is not valid as against them because they
14 were never served.

15 A document, you can take any document, a
16 judge can sign a document, file it with a
17 phony affidavit of service in a County Clerk's
18 office. It's invalid.

19 THE REFEREE: I know, but not in this forum.

20 MR. SASSOWER: Judge, I'll show you why it
21 cannot be. Will you let me --

22 THE REFEREE: No.

23 MR. SASSOWER: -- will you let me finish the
24 question and maybe you can be convinced.

25 Is there a slight possibility that your Honor

can be wrong?

THE REFEREE: No.

MR. SASSOWER: No possibility?

THE REFEREE: Next question.

MR. SASSOWER: No possibility at all?

THE REFEREE: Next question.

Q Mr. Schneider, does Petitioner's Exhibit 8 state that an order to vacate this order or modify this order I need Judge Gammerman's permission or Judge Riccabono's permission? Yes or no.

MR. STRAUS: Objection.

THE REFEREE: Sustained.

Q Look at it.

THE REFEREE: It's in evidence. I'll look at every document.

MR. SASSOWER: May Mr. Schneider be excused for a moment? I want to make a record.

MR. STRAUS: I don't think we should have Mr. Schneider going in and out.

THE REFEREE: Mr. Sassower, continue with the cross-examination.

Q Mr. Schneider, I show you this document, of thirteen pages.

THE REFEREE: Which document?

MR. SASSOWER: A document.

MR. STRAUS: Can we have it marked for identification?

MR. SASSOWER: Mark it for identification.

THE REFEREE: This will be Respondent's Exhibit F for identification.

(Received and so marked)

Q Do you recognize that?

A It purports to be a transcript of a proceeding before the Honorable Ira Gammerman on December 19, 1984.

Q Were you there at that time?

A Yes, I was.

Q Does it purport or is it a correct transcript of what transpired?

MR. STRAUS: Objection.

THE REFEREE: Can you answer that?

A I can't recall if every single word was transcribed.

Q Substantially, is it correct?

A I don't know.

Q Wasn't this a transcript that you gave to the Court at one time with respect to the signing of an order of January -- of Petitioner's Exhibit 8?

MR. STRAUS: Objection.

Schneider-cross

259.

MR. SASSOWER: He submitted it, your Honor.

MR. STRAUS: Your Honor, whether he submitted it or not, we're dealing with an alleged violation of an order, not with how the order came to be signed.

MR. SASSOWER: This is the point, your Honor. Your Honor, I am saying, and you have the Shore case and the Throckmorton case--

THE REFEREE: Sir --

MR. STRAUS: You said it six times.

MR. SASSOWER: Maybe somebody will read these cases.

MR. STRAUS: What you're saying is, maybe the rulings will change if you keep making the same application.

THE REFEREE: Mr. Sassower, the order of the judges will speak for themselves.

MR. SASSOWER: I say they are nullities and the defense says they are nullities and the Appellate Division did not strike out that defense.

THE REFEREE: Not in this forum. Next question. Objection sustained.

MR. SASSOWER: Is Mr. Straus making a motion

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2 to strike out the defenses? Are the defenses
3 in or out? The defenses were put into the
4 Appellate Division. They were sustained by
5 the Appellate Division.

6 MR. STRAUS: They have not been sustained
7 by any court.

8 MR. SASSOWER: Did you make a motion to
9 strike them?

10 MR. STRAUS: As a matter of fact, at the
11 pre-hearing conference, I specifically brought
12 up each affirmative defense point by point and
13 asked you what evidence you would adduce in
14 support of them and, in fact, specifically, asked
15 the Referee to rule that he could not grant
16 those affirmative defenses or hold those affirma-
17 tive defenses as valid because they were beyond
18 the scope of his reference, he cannot strike
19 down court orders as invalid, something that the
20 Referee has said over and over again.

21 MR. SASSOWER: You didn't read my memo-
22 randum and I don't know if his Honor read it.

23 THE REFEREE: Mr. Sassower, I read your
24 memorandum.

25 Again, this is not the proper forum.

1
2 MR. SASSOWER: Fine, let me introduce
3 my evidence and if I don't convince your Honor,
4 maybe I can convince the Appellate Division.

5 THE REFEREE: You will produce your evidence
6 in accordance with the rules. You can't make up
7 the rules.

8 MR. SASSOWER: I'm not making up the rules.
9 I've cases to support me.

10 THE REFEREE: But I don't go along with any
11 cases that you have.

12 I told you this is not the proper forum for
13 you to attack the orders of Judge Gammerman.

14 MR. SASSOWER: May we have an adjournment?
15 May we have an adjournment?

16 MR. STRAUS: I would object to an adjourn-
17 ment.

18 This witness has been inconvenienced.

19 MR. SASSOWER: I'm not worried about witness-
20 es. We are talking about people's rights and
21 you don't comment --

22 THE REFEREE: Mr. Sassower --

23 MR. SASSOWER: Your Honor, let me say this --

24 THE REFEREE: Your application for an adjourn-
25 ment at this juncture is denied.

1
2 MR. SASSOWER: Let me make the record
3 then.

4 THE REFEREE: You have been making the record.

5 MR. SASSOWER: Let me make the record.

6 THE REFEREE: Just continue with your quest-
7 ions. That's the way you make a record.

8 Q Who represents --

9 MR. SASSOWER: Where is Petitioner's Exhib-
10 it 8?

11 MR. STRAUS: You have it.

12 THE REFEREE: Please return those exhibits.
13 Don't commingle them with any exhibits that are
14 not in evidence.

15 Q In December of 1984, January 1985, who represent-
16 ed the plaintiff in action Number Two on Petitioner's
17 Exhibit 8?

18 MR. STRAUS: If it says on the exhibit, then
19 I object to the question.

20 MR. SASSOWER: It doesn't say it.

21 Q Who represented the plaintiff as of record?

22 THE REFEREE: In what case, what action?

23 MR. SASSOWER: Action Number 2 listed
24 here. There are ten listed here. Who represented
25 the plaintiff?

1
2 THE REFEREE: This is a matter before
3 Mr. Justice Gammernan.

4 MR. SASSOWER: Right.

5 THE REFEREE: It's January 1985. Was
6 there one attorney representing all of the plain-
7 tiffs?

8 THE WITNESS: Not in every single case.

9 THE REFEREE: Next question.

10 Q Who represented -- except for Number 1, who
11 represented --

12 THE REFEREE: He didn't say that.

13 MR. SASSOWER: I'm sorry.

14 Q Is it true, Mr. Schneider, that with the except-
15 ion of Proceeding Number 1, that in the other nine actions,
16 and proceedings, George Sassower was the attorney of re-
17 cord in December 1984, to January 1985? Yes or no.

18 MR. STRAUS: Is that according to the
19 exhibit or according to the external facts?

20 MR. SASSOWER: According to the files in
21 the County Clerk's office.

22 THE REFEREE: Are you familiar with that?

23 THE WITNESS: Yes, Mr. Sassower purported
24 to appear as counsel for Mr. Raffe.

25 THE REFEREE: Did he appear?

1 THE WITNESS: Yes.

2 THE REFEREE: Was he heard?

3 MR. SASSOWER: Hold it. Next question.

4 THE REFEREE: Wait a minute, please.

5 Was he recognized by the Court?

6 THE WITNESS: In many of these cases he
7 was disqualified as representing Mr. Raffe.

8 MR. SASSOWER: Now we're coming to it.

9 Q In December 1984, if you looked in the County
10 Clerk's office, who was the attorney of record on all
11 those --

12 MR. STRAUS: Objection.

13 THE REFEREE: Don't tell him to look.

14 Q You looked at the files in the County Clerk's
15 office.

16 MR. STRAUS: Objection.

17 MR. SASSOWER: Okay, let's go through it one
18 by one.

19 Q Hyman Raffe against Kreindler and Relkin, P.C.

20 MR. STRAUS: What's the question?

21 Q Who was the attorney on it?

22 MR. STRAUS: Objection.

23 THE REFEREE: When?

24 MR. SASSOWER: All these are December 1984.
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THE REFEREE: Before the court?

MR. SASSOWER: Before anybody.

THE REFEREE: I'm not interested.

MR. SASSOWER: Before the court.

THE REFEREE: Before the court on that day before Mr. Justice Gammernan.

MR. SASSOWER: For the whole two months.

MR. STRAUS: The problem with the question --

MR. SASSOWER: Will you listen?

MR. STRAUS: No. I'm objecting to the question because it presents a problem.

It asks for a conclusion on the part of the witness when Mr. Sassower says "Who was the attorney for?" the witness testified that Mr. Sassower was disqualified.

If Mr. Sassower is asking the witness' opinion, who was the attorney, that's a different matter.

He can't testify to --

THE REFEREE: I asked the witness whether or not Mr. Sassower appeared in that proceeding.

THE WITNESS: Are we talking about Action Number 2?

MR. SASSOWER: Two to ten.

1
2 THE WITNESS: Your Honor, if I may explain
3 there are ten captioned boxes on Petitioner's
4 Exhibit A.

5 These represent ten different, separate
6 actions and proceedings which were at some point
7 consolidated.

8 MR. SASSOWER: No, they were not.

9 MR. STRAUS: Objection.

10 THE REFEREE: Mr. Sassower, you are not on
11 the witness stand.

12 You are making a statement here that
13 they were not.

14 MR. SASSOWER: Can I ask a question?

15 THE REFEREE: You're making speeches again.

16 MR. SASSOWER: Let me ask a simple question.

17 Q Action and Proceeding Number 2, the Action and
18 Proceeding Number 10, on the summons in the County Clerks
19 file in all the papers, is there one name that appears
20 as the attorney for the plaintiff, yes or no?

21 A I can answer that question only with respect
22 to Actions 3 through 10.

23 My firm was not involved in what you were
24 designating as action --

25 Q Let's say three to ten.

which you were disqualified.

Q January --

MR. STRAUS: Mr. Sassower, you asked a question.

We have a right to have the answer.

THE REFEREE: Please, sir, please. You asked a question.

You immediately answered for the witness.

MR. SASSOWER: I'm sorry.

Q In December 1984 to January 1985, and that's all we're talking about, in Actions 3 to 10 --

THE REFEREE: He's already answered. He said Mr. Sassower's name appears as attorney of record. Next question.

Q On Three to 10, in that two month-period, any papers that had to be served by your office on the plaintiff's attorney, were they served on Mr. Sassower.

A I don't recall if they were served on Mr. Raffé or Mr. Sassower.

1
2 A I believe that your name appeared as counsel
3 of record.

4 Q And three to ten your firm, when it had to send
5 papers, sent them to George Sassower, right?

6 A I don't recall that. There are instances in
7 which you were disqualified.

8 Q January --

9 MR. STRAUS: Mr. Sassower, you asked a
10 question.

11 We have a right to have the answer.

12 THE REFEREE: Please, sir, please. You asked
13 a question.

14 You immediately answered for the witness.

15 MR. SASSOWER: I'm sorry.

16 Q In December 1984 to January 1985, and that's all
17 we're talking about, in Actions 3 to 10 --

18 THE REFEREE: He's already answered. He
19 said Mr. Sassower's name appears as attorney of
20 record. Next question.

21 Q On Three to 10, in that two month-period, any
22 papers that had to be served by your office on the plain-
23 tiff's attorney, were they served on Mr. Sassower.

24 A I don't recall if they were served on Mr. Raffé
25 or Mr. Sassower.

1
2 Q All right.

3 MR. STRAUS: I ask you to direct Mr.
4 Sassower to permit the witness to finish his
5 answer before he interrrupts him.

6 THE REFEREE: Continue, Mr. Schneider.

7 THE WITNESS: I've finished my answer.

8 MR. STRAUS: Can we have the answer?

9 THE REFEREE: The Reporter will read it
10 back.

11 (Answer repeated)

12 Q When you next returned to court, will you check
13 your files or bring your files and find out who you served
14 papers on in December and January of 1984 on Three to 10?
15 Could you do that?

16 MR. STRAUS: Objection. I don't see any
17 reason to impose that upon this witness.

18 MR. SASSOWER: Fine. Let me show you why.

19 MR. STRAUS: This entire line of questioning
20 is irrelevant.

21 The order speaks for itself and we're talk-
22 ing about what conduct on the part of Mr.
23 Sassower violated the order subsequently.

24 MR. SASSOWER: Let me show you the relevancy,
25 please.

1
2 Q Mr. Schneider, I'm going to read to you from
3 this particular transcript and you can follow it and --

4 THE REFEREE: For what purpose?

5 MR. SASSOWER: I'll show you, your Honor.

6 THE REFEREE: No, you will tell me in ad-
7 vance.

8 MR. SASSOWER: May we have Mr. Schneider
9 out of the room?

10 THE REFEREE: No.

11 MR. SASSOWER: Well, look at the first page,
12 your Honor.

13 THE REFEREE: Sir, what are you trying to
14 do?

15 MR. SASSOWER: I'm saying through this man's
16 fraud in the record -- I don't have to look at
17 my exhibit --

18 MR. STRAUS: You have given this to the
19 witness to look at and you are having a discussion
20 about it.

21 MR. SASSOWER: Through this man's fraud
22 by misrepresenting to the court he prevented
23 Mr. Raffé from asserting his position.

24 MR. STRAUS: Objection, and I move to strike
25 the prior -- in view of the offer, I move to

strike the testimony.

THE REFEREE: Objection sustained. Next question.

MR. SASSOWER: Let me read it into the record.

MR. STRAUS: I'll object to reading any of this into the record.

MR. SASSOWER: I can make a record, an offer of proof.

THE REFEREE: Your objection is sustained.

MR. SASSOWER: Fine, I'll make an offer of proof.

MR. STRAUS: Your Honor, if he is going to read an entire transcript into the record, I don't think that's an offer of proof. An offer of proof can be made by summarizing the purpose.

MR. SASSOWER: I'll read a page and a half.

THE REFEREE: You are reading from what is purported to be a transcript dated December 19, 1984.

MR. SASSOWER: Right.

THE REFEREE: Supreme Court, County of New York, Special Term, Part 1, Matter of application of Jerome Barr and Citibank.

1
2 THE REFEREE: Among the attorneys listed
3 in appearances is George Sassower, attorney for
4 opposition.

5 MR. STRAUS: If your Honor please, respect-
6 fully submit that whatever the contents are, it
7 is inappropriate for this forum to hear it.

8 MR. SASSOWER: I'm making an offer of proof.

9 THE REFEREE: Go ahead.

10 MR. SASSOWER: Your Honor, if I don't read
11 correctly, if I may make mistakes, please have
12 no hesitancy in interrupting.

13 "The Court: Motions would be 27 and Two, 24.
14 I have as I understand it, five motions. I
15 understand, Mr. Sassower, you have been dis-
16 qualified from representing Mr. Raffo and I am
17 interested in knowing in what actions this dis-
18 qualification applies.

19 "Mr. Schneider: Index number 01816."

20 Q Would you agree, Mr. --

21 MR. STRAUS: I object. This is an offer
22 of proof.

23 THE REFEREE: I have sustained the objection
24 with respect to inquiring of this witness. You
25 wanted to make a record for yourself by reading

one and a half pages, period.

MR. SASSOWER: "Mr. Schneider: Index number 01816.

"The Court: Are there motions?

"Mr. Schneider: Yes.

"The Court: Are those motions to stay the proceedings?

"Mr. Schneider: There's the receiver's motion for an order vacating motions made by --

"The Court: They were brought without order to show cause? Granted."

THE REFEREE: Wait a minute, sir. You didn't read it correctly.

"Mr. Schneider: There's the receiver's motion for an order vacating motions made by dash, dash."

The next sentence is the court.

MR. SASSOWER: Then the court.

"The Court: They were brought without order to show cause. Granted. You have been disqualified from representing Mr. Raffe.

"Mr. Schneider: There is also in the same proceeding which Mr. Sassower was disqualified -- there is also Mr. Raffee's motion for an order

1
2 compelling the court-appointed receiver to
3 recover from his attorneys the fees.

4 "The Court: Because of some order which
5 was allegedly not filed, motion denied. I
6 have read those papers. You don't represent
7 Mr. Raffe in that matter. You have no standing.
8 Is Mr. Raffe here, Mr. Schneider?

9 "Mr. Schneider: No, he's not.

10 "The Court: He's defaulted on the motions.

11 "Mr. Wiseman: That's right.

12 "Mr. Schneider: Your Honor, there are
13 three separate orders to show cause by each of
14 the litigants.

15 "The Court: Those motions, Mr. Raffe --
16 those motions Mr. Sassower can represent Mr.
17 Raffe.

18 "Mr. Schneider: No, he cannot represent
19 Mr. Raffe, but he certainly can represent himself.

20 "The Court: Then the motions are granted
21 with respect to Mr. Raffe. Mr. Raffe is defaulted.

22 "The first time" -- by Mr. Sassower -- this
23 is the first time I spoke -- "His affidavit is
24 there."

25 "The Court: You don't represent him."

THE REFEREE: Mr. Sassower, you earlier indicated that you wanted to read a page and a half. Now you are going for two pages.

MR. SASSOWER: Okay. A few more.

MR. STRAUS: If your Honor please, whatever his offer is, I don't think this is the procedure because he's going to do this.

THE REFEREE: He wants to make a record for himself.

MR. STRAUS: Your Honor, he can make a record by making an offer of proof as to what the contents of the transcript would be.

MR. SASSOWER: Look, Judge, I want to make a record.

MR. STRAUS: You don't. You want to delay the proceedings endlessly.

MR. SASSOWER: Over a year and a half I have been telling you to bring it to trial.

MR. STRAUS: Nonsense. If you would have answered the complaint we would have moved precipitously.

MR. SASSOWER: I answered within a week, Judge. I want to make a record.

MR. STRAUS: You have more than made a record.

MR. SASSOWER: That's my right, that's my right, that's my right.

THE REFEREE: Sir, don't tell me what your rights are.

MR. SASSOWER: Are you preventing me from making a record?

THE REFEREE: Yes, at this point, you said a page or page and a half.

You are now attempting to -- you will cease and desist. Continue.

CROSS EXAMINATION

BY MR. SASSOWER:

Q Mr. Schneider, when you told the Court that I cannot represent Mr. Raffe, and we're speaking about all the actions that were pending before the court --

MR. SASSOWER: Withdrawn.

Q Mr. Schneider, does the transcript --

MR. STRAUS: Objection. He cannot ask the witness about a transcript.

THE REFEREE: Sustained.

MR. SASSOWER: Can I finish a question?

THE COURT: Sustained. No.

MR. SASSOWER: I want to finish the question for the record.

1
2 THE REFEREE: Sustained.

3 Q Mr. Schneider, does the transcript read correct-
4 ly when it states --

5 THE REFEREE: Sustained.

6 MR. SASSOWER: Am I allowed to make a re-
7 cord, yes or no?

8 THE REFEREE: Sustained.

9 MR. SASSOWER: Am I allowed to make a record?

10 THE REFEREE: Not on this issue. Next
11 question.

12 MR. SASSOWER: I'm not allowed to make a
13 record?

14 THE REFEREE: I sustained the objection.

15 MR. SASSOWER: I want to put it on the
16 record, what he said.

17 THE REFEREE: Sir, I sustained the objection.

18 MR. SASSOWER: I understand.

19 THE REFEREE: I will not permit you to put
20 it on the record.

21 Go ahead. You have already put enough on
22 the record.

23 It's documents that are not in evidence.

24 MR. STRAUS: In view of the prior ruling,
25 it is, obviously, an inappropriate offer.

THE REFEREE: Sustained.

Q Petitioner's Exhibit 8, was that drawn up by the Kreindler and Relkin firm?

A I testified at the last session that the document itself was affixed to the name of Kreindler and Relkin in the margin.

Q Did they draw up that document in consultation with you, yes or no?

A Yes.

Q And did you approve of that document?

MR. STRAUS: Objection.

THE REFEREE: Overruled.

A Overall, yes.

Q In any event, you did not submit any court's order.

A That's correct.

Q I turn your attention to that portion of Petitioner's Exhibit -- Page 6 -- Page 6 of Exhibit 8.

A Mr. Sassower, I don't have it, I can't respond to anything without a copy of that.

MR. STRAUS: It's being handed to you, Mr. Sassower.

MR. SASSOWER: All right. Page 6.

Q By the way -- did the court order a -- did the

1
2 court render a decision with respect to the proceedings
3 that happened on December 19, 1984?

4 MR. STRAUS: Objection. Which court?
5 What proceedings?

6 MR. SASSOWER: Judge Gammernan, December 19
7 I'm talking about.

8 THE REFEREE: You didn't say so.

9 MR. SASSOWER: All right.

10 Q Did the judge render a written decision? Did
11 he render an oral decision? What kind of a decision did
12 he render?

13 A He rendered a decision from the bench.

14 Q And was that decision transcribed in the minutes,
15 yes or no.

16 A The minutes from which you were just reading
17 purports to be a transcript of what was said on December 19.

18 Q I read from Page 6 of Exhibit 8, "This Court,
19 having rendered an oral decision on December 19, 1984 granting
20 the motions and extending the temporary restraining order
21 obtained within the order to show cause hereinabove specified"
22 and I ask you where in this transcript --

23 MR. STRAUS: Objection. There is no
24 transcript in evidence.

25 MR. SASSOWER: Wait a second.

1
2 MR. STRAUS: The question is objectionable.

3 MR. SASSOWER: I'll withdraw that.

4 THE REFEREE: Mr. Sassower, if you believe
5 that a judge's order was based on erroneous evi-
6 dentiary matters obtained in a transcript, it
7 was your province at that time to take the proper
8 action, not here.

9 MR. SASSOWER: Judge, you don't follow.
10 Just give me an opportunity, not to show your
11 Honor, to show the Appellate Division, okay?

12 Q Do you contend Mr. Schneider --

13 MR. STRAUS: Objection.

14 MR. SASSOWER: Wait a second.

15 Q -- that the minutes that you heard, do you
16 contend that you heard Judge Gammerman on December 19
17 state that he was extending the temporary restraining
18 order obtained within the order to show cause?

19 MR. STRAUS: Objection.

20 THE REFEREE: Sustained. Judge Gammerman's
21 order will speak for itself.

22 MR. SASSOWER: I'm saying a fraud occurred
23 here.

24 THE REFEREE: Sir, don't you raise your
25 voice here. If a fraud occurred, there was a

proper forum, not here.

MR. SASSOWER: Your Honor, I'm saying --

THE REFEREE: I know, but I'm saying "no."

MR. SASSOWER: Let me make --

THE REFEREE: You want to make a record.
It's the same thing.

MR. SASSOWER: I'll make a record.

THE REFEREE: No. Please sit down. When I
say "No," I mean no.

MR. SASSOWER: I cannot make a record?

THE REFEREE: No, not on this subject. Next
question.

MR. SASSOWER: I insist upon making a record.

THE REFEREE: No, sir.

MR. SASSOWER: Are you saying, Mr. Schneid-
er, that Judge Gammerman on December 19 extended
the restraining --

MR. STRAUS: Objection.

MR. SASSOWER: Wait a second.

MR. STRAUS: Objection.

Q -- are you saying he did it, in fact?

THE REFEREE: Sustained. Go ahead.

Q Did you have a conversation with Judge Riccabono
between December 19, you or your firm, directly or

indirectly with Judge Riccabono between December 19 and January 23rd?

MR. STRAUS: Objection.

THE REFEREE: Conversation about what?

MR. SASSOWER: About the order.

THE REFEREE: Which order?

MR. SASSOWER: About changing Judge Cammerman's decision of December 19.

MR. STRAUS: Objection, this is --

THE REFEREE: He went to Judge Riccabono to change another judge's order? Sustained.

MR. STRAUS: Mr. Sassower is violating your directions time after time.

That's all we're doing here today is, he's ignoring the rulings and pursuing his own mode of questioning.

MR. SASSOWER: I'll put it for the record this Court is whitewashing judicial corruption and will not even allow me to make a record.

THE REFEREE: Objection sustained.

MR. SASSOWER: The question is --

MR. STRAUS: The question has been sustained.

MR. SASSOWER: I understand it. You want to whitewash this corruption. I'll say this.

1
2 MR. SASSOWER: Wait a second, your Honor.

3 THE REFEREE: Don't tell me. You will
4 show some respect for me. Don't tell me to wait.

5 MR. SASSOWER: I said, "Mr. Straus."

6 THE REFEREE: You were talking to me.

7 MR. STRAUS: You were addressing yourself
8 to Judge Potoker. You have been disrespectful
9 all morning.

10 THE REFEREE: Mr. Sassower, if you have
11 any evidence whatsoever about judicial corruption
12 in this town, Mr. Sassower, the United States
13 Attorney's office is only two blocks from here,
14 and there is the District Attorney's office in
15 Kings County right across the street and you
16 don't have to go far.

17 MR. STRAUS: And there is the Commission on
18 Judicial Conduct also, Mr. Sassower.

19 Q You state here in this letter --

20 THE REFEREE: In what letter?

21 MR. SASSOWER: This letter to the Grievance
22 Committee.

23 MR. STRAUS: You haven't shown it to the
24 witness.

25 MR. SASSOWER: Will you listen?

1
2 MR. STRAUS: You can't ask a witness about
3 a letter without letting him see it.

4 THE REFEREE: Mr. Straus, please.

5 MR. STRAUS: I think Mr. Sassower is going
6 his own way.

7 THE REFEREE: It's more difficult for me to
8 be so tolerant.

9 Q I show you your letter --

10 THE REFEREE: Wait a minute. Has it been
11 identified?

12 MR. SASSOWER: I'll identify it.

13 THE REFEREE: Identify it.

14 MR. SASSOWER: I'll do it the roundabout
15 way.

16 THE REFEREE: That will be Respondent's
17 Exhibit G.

18 (Marked R-G for identification)

19 MR. SASSOWER: I'd prefer your Honor's way,
20 but --

21 THE REFEREE: It's the only way.

22 MR. SASSOWER: Judge, I'm telling you about
23 what a lot of judges want to do.

24 THE REFEREE: It will be Respondent's
25 Exhibit G for identification.

MR. SASSOWER: They want to save time.

THE REFEREE: I'm not here to save time.

Q I ask you to read -- this is before --

THE REFEREE: Mr. Sassower, wait. Don't ask him to read anything.

Do you have a question?

MR. SASSOWER: Yes.

THE REFEREE: What is the question?

Q I draw your attention to the second full paragraph on Page 2, the first full paragraph is only one line, is that correct? Starting with the second line.

THE REFEREE: Question --

Q Starting with the second line, which is the commencement of a new paragraph, would you read what you wrote to Mr. Straus in that letter?

MR. STRAUS: Your Honor, I don't know that this is the appropriate way to put a question to the witness.

Is there some purpose for the question?

MR. SASSOWER: Of course. I wouldn't ask the question if there was no purpose.

MR. STRAUS: You can offer the document in evidence.

MR. SASSOWER: I want one, I want one

paragraph in evidence right now.

THE REFEREE: You want one paragraph in evidence?

MR. SASSOWER: That's all. It's self-contained. It has nothing to do with anything else.

THE REFEREE: Can you answer the question?

THE WITNESS: If I understand the question, Mr. Sassower wants me to read verbatim.

THE REFEREE: No, you read it to yourself. You are not going to read it into the record.

MR. STRAUS: I'm sorry, I thought he wanted him to read it into the record.

THE REFEREE: You can't read into the record any document that's not in evidence.

You're accomplishing the same thing without offering it.

MR. SASSOWER: Your Honor --

THE REFEREE: No.

MR. SASSOWER: -- I do not have to --

THE REFEREE: I'm not asking for any advice from you, sir.

MR. SASSOWER: I'm not asking you to give advice, I want to offer one more.

There is nothing, as I know it, in the law

that says you have to offer everything because you want one paragraph in.

THE REFEREE: Sir, I didn't say anything about that.

You offer something that's relevant and material to this proceeding.

MR. SASSOWER: I'm going to offer it as relevant.

THE REFEREE: It's not the King James version of the bible.

MR. SASSOWER: I have something relevant if you would give me an opportunity to explore it.

THE REFEREE: No.

Q Did you read that paragraph, sir?

A Yes.

Q In sum and substance, did you notify Mr. Straus that subsequent to December 19, between December 19 and January 19, that I violated --

THE REFEREE: What years?

MR. SASSOWER: In 1984 and 1985.

THE REFEREE: What's your question?

Q In sum and substance you state in that paragraph that Judge Gammerman extended Judge Hughes' temporary restraining order and that between December 19, 1984

1 and January 9, 1985, I had violated it three times.

2 MR. STRAUS: Objection.

3 Q Is that what you say in sum and substance?

4 MR. STRAUS: Objection. The document is
5 not in evidence, as I understand it.
6

7 Mr. Sassower is now asking the witness to
8 read from the document, paraphrase it, then put
9 that into evidence.

10 That's the basis of my objection.

11 MR. SASSOWER: The next question is the impor-
12 tant question.

13 MR. STRAUS: As I understand it that question
14 is improper and that's why I'm objecting to it.

15 MR. SASSOWER: Judge, I just want to bring
16 it -- there's a claim made before your Honor.

17 THE REFEREE: What you want to do is go
18 behind every single judge's order.

19 MR. SASSOWER: No, this is not behind it.
20 This is in absolute conformity with it.

21 THE REFEREE: He's not the Petitioner in
22 this case.

23 MR. SASSOWER: I understand it. He says
24 in there that I violated Judge Gammernan's --

25 THE REFEREE: Then it was up to the Grievance

1
2 Committee to decide whether or not, in their
3 opinion, you did then submit it.

4 MR. SASSOWER: They allege in their complaint
5 that I violated it three times and they copied
6 that and I'm going to show your Honor --

7 THE REFEREE: What do you mean they copied?

8 MR. SASSOWER: That paragraph.

9 THE REFEREE: You mean the Grievance
10 Committee didn't conduct an investigation?

11 MR. SASSOWER: Absolutely not. Give me
12 that letter, please. They made no -- never mind.

13 MR. STRAUS: Did you say something, Mr.
14 Sassower?

15 MR. SASSOWER: No.

16 THE REFEREE: He's talking to himself.

17 Q Do you state in that paragraph -- did you state --

18 MR. SASSOWER: I'll put it a different way.

19 Q By letter dated December 9, 1985, did you, Mr.
20 Schneider state that on December 19 Judge Gammernan extended
21 Judge Hughes' temporary restraining order?

22 THE REFEREE: Did he ever tell the Grievance
23 Committee that?

24 THE WITNESS: Yes, not on the date Mr.
25 Sassower said.

1
2 THE REFEREE: We're not talking about
3 the date. We're not talking about the document.

4 Q You further state --

5 THE REFEREE: Not "You further state."
6 You are reading from a document not in evidence.

7 MR. STRAUS: You can ask the witness if
8 he ever said something, Mr. Sassower.

9 Q Did you also advise the Grievance Committee
10 that in extending Judge Hughes' temporary restraining order,
11 Mr. Sassower commenced in violation, that Mr. Sassower
12 commenced three new lawsuits which violated that extension
13 of the temporary restraining order?

14 THE REFEREE: Forget the document.

15 Q If you want to refresh your recollection --

16 THE REFEREE: Do you recall having so
17 informed the Grievance Committee?

18 THE WITNESS: I do recall informing the
19 Grievance Committee that Mr. Sassower violated
20 the TRO of Mr. Justice Hughes.

21 THE REFEREE: Go ahead.

22 Q As extended by Mr. Justice Gammerman.

23 A That's correct.

24 Q Could you tell the Court which three actions
25 you stated to the Grievance Committee that I violated

1
2 between December 19 and January 9?

3 A I can do it only with reference to a particular
4 document that I don't have in front of me.

5 MR. SASSOWER: Mr. Straus, will you produce
6 the three documents?

7 MR. STRAUS: I don't know what the witness
8 requires to answer your question.

9 THE WITNESS: I need Petitioner's Exhibit 8.

10 MR. STRAUS: You have Exhibit 8 someplace.

11 MR. SASSOWER: Your Honor, to save time --

12 MR. STRAUS: We have Exhibit 8.

13 MR. SASSOWER: It says "Copies of the
14 latest lawsuits are enclosed."

15 THE REFEREE: Mr. Sassower, the witness
16 said he requires the use of looking at Petition-
17 er's Exhibit 8 to answer the question. Let him do
18 so.

19 (Short pause ensues)

20 THE REFEREE: Continue your cross-examination.

21 MR. STRAUS: Your Honor, before we proceed
22 with the cross-examination, Mr. Schneider has
23 informed me that he has a brief which is due
24 Thursday and he would like to be excused from
25 appearing on Thursday.

1
2 We'll be attempting to get in contact
3 with other witnesses who are under subpoena
4 to ask them here for Thursday morning.

5 In the event that we can't get them here,
6 we'll proceed to the extent that we can with
7 any of the other charges, but I think in view
8 of the time that Mr. Schneider has devoted to
9 this, that his request is a reasonable one. He's
10 made every effort to.

11 G.S.—Can we take this up at the end of the day?

12 THE REFEREE: Let's decide it now. It's a
13 simple matter.

14 We're extending a courtesy to a member
15 of the bar who has to be elsewhere.

16 MR. SASSOWER: Judge, please, let me
17 finish a thought.

18 THE REFEREE: I know, but the same thing
19 can be said in two words instead of two hundred
20 twenty-two words. No big deal about it. He can't
21 be here Thursday.

22 MR. SASSOWER: Fine, so we'll go without him.
23 I want to cover a little more ground than that in
24 that respect.

25 THE REFEREE: At the end of the session, you

1
2 can cover the ground. Proceed now.

3 MR. STRAUS: The other -- with respect
4 to this witness, I'd like to make application.

5 During the cross-examination earlier this
6 morning, Mr. Sassower made various accusations
7 against this witness, which, I think your Honor
8 made a remark which was appropriate to the oc-
9 casion.

10 If Mr. Sassower wishes to testify as to
11 what he regards as testimony which is untruth-
12 ful, that's appropriate, but it is entirely
13 inappropriate for this record to contain the
14 kind of remarks that Mr. Sassower has made,
15 specifically that if it is at all appropriate,
16 I would ask your Honor to direct that those ac-
17 cusation which were not made under oath be
18 stricken from the record so that -- I understood
19 on previous applications that other judges had
20 granted Mr. Schneider's relief from this type
21 of accusation as well as several other attorneys
22 from the type of accusations that Mr. Sassower
23 made.

24 THE REFEREE: It is not evidence and will
25 not be considered by this Court.

1
2 MR. SASSOWER: Can you honestly, Judge,
3 Judge, do me a favor? I said it January 30 and
4 I say it today, will you hear me before you make
5 a decision? That's all I ask, sir.

6 THE REFEREE: Sir --

7 MR. SASSOWER: That's your rules.

8 THE REFEREE: There are times when I also
9 listen to you and times when I won't have to
10 listen to you.

11 MR. SASSOWER: Make your decisions ex-parte.

12 THE REFEREE: If it's simple matter, I
13 don't have to listen.

14 MR. SASSOWER: That was all I have to
15 say, your Honor. I'm sorry.

16 THE REFEREE: I think you can refrain and
17 should refrain from any personal attacks.

18 MR. SASSOWER: Judge, I'm telling this calm-
19 ly, okay, this man is --

20 THE REFEREE: Don't repeat anything you say.

21 MR. SASSOWER: Okay.

22 THE REFEREE: Anymore cross-examination.

23 MR. SASSOWER: Plenty, your Honor.

24 THE REFEREE: So far I don't hear anything.

25 MR. SASSOWER: You have stricken all the

relevant stuff, your Honor, thank you.

That's a matter we'll take up in another tribunal.

May I give Mr. Schneider a piece of paper to take notes because I'm going to ask your Honor -- I'm going to ask your Honor --

THE REFEREE: Just hold your piece of paper, just ask a question.

Q Mr. Schneider, the next time you come here, could you bring all the motions that were made by your office?

THE REFEREE: Sir, don't --

MR. SASSOWER: Let me finish.

THE REFEREE: No, no, no, why are you asking him?

Who knows whether or not I'm going to order him to do so.

Ask Mr. Straus first if he has any records that you want.

MR. SASSOWER: Mr. Straus, I would like brought into court at the next session that Mr. Schneider comes, all motions that were made where I was accused of violating any order of the court and the disposition of those motions.

Is that a fair request?

1
2 MR. STRAUS: Let me respond to it and
3 I'll tell you why it is not a fair request.

4 Specifically when Mr. Schneider testified
5 on direct and he testified to the fact that I
6 had asked him to produce all the motions and
7 I'm not sure whether he's permitted to testify
8 to this, but, in any event, he indicated that
9 it would actually take a large truck to bring
10 in all of the motions pertaining to this liti-
11 gation and to separate out various types of
12 motions.

13 Furthermore, every motion made against Mr.
14 Sassower is in Mr. Sassower's possession.

15 The witness should not be burdened with
16 producing documents because Mr. Sassower finds
17 it inconvenient for him to search his own files
18 for them.

19 He's a litigant in this matter and that
20 obligation is properly on his shoulders, to ask
21 witnesses and every subpoena doesn't even
22 distinguish between a particular document or
23 a particular type of document. It asks for
24 every document that was filed in the history
25 of this litigation, which goes on for some six

years and is continuing as of today.

There is presently litigation going on. I think it's unduly burdensome. It's unfair. And, there is no need, because Mr. Sassower has them in his own possession.

MR. SASSOWER: Your Honor, let me ask a couple of questions, then I'll conclude the argument.

Q Mr. Schneider --

MR. SASSOWER: If I'm going to mark it in evidence anyway, do you want to mark it for identification first?

THE REFEREE: Yes, if it's a document it should be marked for identification.

MR. SASSOWER: Your Honor, would you mark this for identification, please?

THE REFEREE: Respondent's Exhibit H.

(Received, so marked)

Q Mr. Schneider, would you personally -- did you personally sign that document?

A No, I did not.

Q Did it go out with your authorization?

A I did not see it before it went out. I have several associates and other attorneys in the firm who

1
2 were also compelled to work on this case Mr. Sassower.

3 Q Did you ever see that document before?

4 A I'm not sure.

5 Q Do you deny that it came from your office?

6 MR. STRAUS: He's answered that question.

7 Q Will you check your office file and the next
8 time you come, advise us whether that came from your of-
9 fice and you sentit out.

10 THE REFEREE: Can you do that?

11 THE WITNESS: I can review my office files.

12 Q Would you want a piece of paper so you can
13 write down all these things?

14 A I assume Counsel is doing that.

15 THE REFEREE: What do you mean by "all these
16 things"?

17 MR. SASSOWER: I'm going to give him a list
18 of things somewhat similar in nature --

19 THE REFEREE: Mr. Sassower -- are you
20 reverting to your initial position? You want
21 to go behind this?

22 MR. SASSOWER: There is no order here.

23 THE REFEREE: What information are you
24 seeking here? What is it you want? Ask the
25 witness.

1
2 Q Is there a judgment against George Sassower
3 by you, your firm or Puccini in the sum of \$50,00 as al-
4 leged there. Just answer yes or no, no stories.

5 MR. STRAUS: Objection.

6 THE REFEREE: Sir, you say as alleged there.
7 That is not in evidence so forget about it.

8 MR. SASSOWER: Subject to being --

9 THE REFEREE: You want to know if there is
10 a judgment.

11 MR. SASSOWER: Is there --

12 THE REFEREE: Do you know if there is a
13 judgment?

14 MR. SASSOWER: For \$50,000, by you, your
15 firm, or Puccini against me that was entered on
16 June 10, 1985, yes or no, that's all.

17 THE WITNESS: I know that there are -- I
18 know that there is an order and/or judgment or
19 more than one assessing you with fines for
20 attorney's fees in that amount.

21 Q Is there a judgment, period?

22 THE REFEREE: Did you enter judgment?

23 THE WITNESS: I don't recall.

24 Q Did this come from your office and I ask that
25 it be marked for identification.

(Received and marked Respondent's Exhibit I
for identification)

A Again, this is not my signature.

Q Do you know whose signature it is?

A No, I'm not sure.

Q Without being sure, do you know whose it is?
Is that Miss Brennan's?

A I'm not going to speculate.

THE REFEREE: He said he's not sure. Why
ask him to speculate?

MR.SASSOWER: Because I may want to subpoena
that person.

THE REFEREE: He's not sure. He's not sure.

MR. STRAUS: Your Honor, I'm not looking
at the document. Mr. Sassower doesn't want me
to look at them.

But I would ask your Honor on grounds of
relevance what does this have to do with the
alleged violation of an order?

THE REFEREE: They are not in evidence.

MR. STRAUS: But he's asking the witness
to produce things. If it's not --

THE REFEREE: He may be asking. That's
another matter, but --

MR. SASSOWER: Would you mark that for

identification, please?

(Received, marked Respondent's Exhibit J
for identification)

Q What --

A There is no question, Mr. Sassower.

Q Did you receive that letter?

A I received a copy of this letter, yes.

Q Did you respond to it?

A To whom?

Q To the sheriff, to anybody?

A I can't answer that question "Did I respond to
anybody?"

Q Did you respond to the sheriff?

A No.

Q May I see it, please?

A Yes.

THE REFEREE: Mr. Sassower, now we have
the sheriff involved.

MR. SASSOWER: Will you please let me ask
a question?

THE REFEREE: No, I can't let you ask a
question that has nothing to do with this case.

MR. SASSOWER: Maybe it does.

THE REFEREE: Maybe it does.

1
2 MR. SASSOWER: Maybe.

3 THE REFEREE: So far they do not.

4 MR. SASSOWER: Judge, we have to take one
5 step at a time.

6 THE REFEREE: No, we can't go on ad infinitum.

7 MR. STRAUS: I would ask that Mr. Sassower
8 make an offer of proof as to the relevance
9 of these documents.

10 MR. SASSOWER: Fine.

11 Q Let me ask you this, one more question.

12 MR. STRAUS: I would ask your Honor that you
13 direct Mr. Sassower to make an offer of proof.

14 THE REFEREE: One more.

15 MR. SASSOWER: One more document.

16 THE REFEREE: He's going to another subject
17 matter, I hope.

18 Q Is this your signature to an affidavit?

19 MR. SASSOWER: Let me mark it first, I'm
20 sorry.

21 THE REFEREE: That will be K for identifi-
22 cation. That will be deemed marked.

23 (Deemed marked Respondent's K for identifi-
24 cation)

25 Q Together with the order to show cause.

1
2 THE REFEREE: It's a document that you
3 have in your possession. You're leaving it in
4 or what?

5 MR. SASSOWER: I'm taking all exhibits with
6 me.

7 THE REFEREE: Those are not in evidence.

8 MR. SASSOWER: He's taking the one that's
9 in evidence so I'm taking mine that are in evi-
10 dence.

11 THE REFEREE: You are taking the ones back
12 that are in evidence.

13 MR. STRAUS: Only at the conclusion of this
14 hearing, they will all be turned over to Referee
15 Potoker.

16 MR. SASSOWER: I'll turn it over to you.

17 THE REFEREE: It's not in evidence.

18 MR. SASSOWER: After he identifies it, it
19 will be marked in evidence.

20 THE REFEREE: You mean it will be offered.

21 MR. SASSOWER: After he identifies it.

22 THE REFEREE: All right.

23 MR. STRAUS: Do you want it marked for iden-
24 tification?

25 THE REFEREE: You may as well mark it.

(Received, marked Respondent's Exhibit K)

Q Is that an order to show cause that you ex-parte secured, supported by your affidavit?

A This is a conformed copy of an order to show cause that was signed by the Honorable Donald Diamond.

Q He's not an Honorable. He's a Referee.

THE REFEREE: Sir, he wants to call him Honorable. He's a Referee. He's an Honorable.

MR. SASSOWER: I don't think so, Okay. I offer in evidence the order to show cause and the affidavit without admitting the truth of the allegations contained therein.

MR. STRAUS: May I see it?

MR. SASSOWER: Sure.

THE REFEREE: If you're offering a document in evidence, how can you offer something that you are challenging?

MR. SASSOWER: It's his assertions.

THE REFEREE: Of what?

MR. SASSOWER: He's making certain assertions.

THE REFEREE: Does it have anything to do with this matter?

MR. SASSOWER: Yes.

1
2 MR. STRAUS: I'll object on the grounds
3 of relevancy.

4 This is dated -- this is an order to show
5 cause which is dated January 23rd, 1986, which
6 is certainly after the petition was served.

7 It is subsequent conduct, and again, I
8 would ask Mr. Sassower for an offer of proof as
9 to its relevance.

10 MR. SASSOWER: I'll do it now.

11 MR. STRAUS: Until I hear an offer of proof,
12 I have no position as to whether I would object
13 or not.

14 MR. SASSOWER: This affidavit states in
15 sum and substance that Referee Diamond made
16 an award of \$5,000 and that unless I pay it
17 an order will be entered authorizing the sheriff
18 of Westchester County to break open, enter, and
19 search for the chattles described below and the
20 chattels described below --

21 THE REFEREE: Mr. Sassower, --

22 MR. SASSOWER: Excuse me.

23 THE REFEREE: No, no, no.

24 MR. SASSOWER: Let me finish my sentence.

25 THE REFEREE: I want to know the relevance.

1
2 MR. SASSOWER: You are asking why I don't
3 have certain documents.

4 THE REFEREE: No, what is the relevance
5 of this document, the order to show cause, to
6 the proceedings before us?

7 MR. SASSOWER: Because I'm telling your
8 Honor why I don't have documents and ask they
9 must produce them and I said it this morning
10 and I say it again, I don't know how many more
11 times, you want to give me a month, I'll assort
12 my documents.

13 THE REFEREE: Assuming you had this document,
14 what is the relevance?

15 MR. SASSOWER: I took all my documents and
16 they were all put in boxes. They have to be assort-
17 ed.

18 THE REFEREE: You're not answering my quest-
19 ion, sir.

20 MR. SASSOWER: Yes, your Honor, I think I
21 answered your question. What's the relevance?
22 The relevance is I don't have certain material.

23 THE REFEREE: Assuming you had the documents,
24 then what?

25 MR. SASSOWER: You mean my files?

Mr. Straus keeps saying ad infinitum, ad nauseum that I can produce the documents.

THE REFEREE: I'm specifically referring to this order to show cause.

MR. SASSOWER: I was caused to flee in the middle of the night.

MR. STRAUS: What does that have to do with cross-examination?

MR. SASSOWER: I haven't got the documents to cross-examine him with.

MR. STRAUS: Mr. Sassower, he's given direct examination.

MR. SASSOWER: I can't cross-examine with documents that I don't have available at the present time.

I subpoenaed them. Your Honor quashed them. He doesn't want to bring the County Clerk's files. Your Honor told him ex-parte that he doesn't have to bring the County Clerk's files.

You are telling me that under these circumstances that I cannot confront the witness with documents which prove that his testimony is false but, I'll continue because I'll follow instructions.

1
2 THE REFEREE: What testimony of his is
3 false?

4 MR. SASSOWER: He testified in sum and sub-
5 stance --

6 Let me put it this way. My contention is
7 that if he looks through all the files, he'll
8 not find any decision, any order of any judge,
9 that says that I violated Judge Hilda Schwartz'
10 order.

11 THE REFEREE: Mr. Sassower, you know how
12 difficult it is to say --

13 You mean Mr. Straus?

14 MR. SASSOWER: Mr. Straus. You know how
15 difficult it is to prove a negative. The only
16 way I can prove a negative is to get every order
17 before your Honor.

18 The law of evidence says that under those
19 circumstances --

20 THE REFEREE: No. It's up to Mr. Straus
21 to prove the charges that were filed against you.

22 MR. SASSOWER: Fine, so, I'd ask the question
23 of Mr. Schneider and I'm paraphrasing.

24 THE REFEREE: He's not a member of the
25

1
2 Grievance Committee.

3 MR. SASSOWER: Mr. Straus, give me a bill
4 of particulars.

5 MR. STRAUS: You're not following this.
6 We allege that you violated Judge Schwartz's
7 order so the obligation is on us to prove that.

8 If we don't prove it, you have no obligation
9 to disprove it, then the evidence fails for in-
10 sufficiency.

11 MR. SASSOWER: You are trying to prove that
12 charge by Mr. Schneider because all you have is
13 Mr. Schneider and Mr. Gerstein. You don't have --

14 MR. STRAUS: Whatever evidence we have
15 offered is in evidence.

16 MR. SASSOWER: I'm saying to you, tell me,
17 show me, show me a decision where I will tell
18 you, your Honor, and I'm using just round numbers,
19 that they may have said to thirty judges on
20 twenty-five different times that I violated
21 Judge Schwartz' order and I'll tell your Honoor
22 that on the thiry times, with the twenty-five
23 judges, I don't recall one judge ever saying
24 Mr. Sassower violated Judge Schwartz' order.

25 THE REFEREE: It's up to Mr. Straus to

1
2 prove it.

3 MR. SASSOWER: Fine, but he's putting
4 his witness on and I'm asking him which judge --
5 Mr. Straus is not taking the stand though and
6 I have no bill of particulars so, I'm asking his
7 witness which judge, by what order, or by what
8 decision said Mr. Sassower has violated Judge
9 Schwartz' --

10 THE REFEREE: You asked it this morning.

11 MR. SASSOWER: What did he say? He says
12 he doesn't have the documents.

13 MR. STRAUS: That wasn't his testimony, Mr.
14 Sassower. On direct examination, he only testi-
15 fied that certain actions were brought and tes-
16 tified that certain orders were entered.

17 If we don't carry our burden of proof,
18 Judge Potoker, then the charge will fail with
19 respect to that.

20 MR. SASSOWER: I'm asking you for a bill of
21 particulars. Tell me what decision, what order
22 of what judge said I violated Judge Schwartz' --

23 MR. STRAUS: All of the orders and all of
24 the actions brought in violation of that were
25 specified in the pleadings.

1 MR. SASSOWER: That's what you say.

2 MR. STRAUS: That's what the pleadings say.

3 MR. SASSOWER: Wait, I know how to play
4 the ballgame also.

5 Judge Potoker has said, and, I don't agree
6 with him, but I'll go along with him, Judge
7 Potoker says and I'm paraphrasing, I am not
8 going behind another judge's order. A fair-
9 statement.
10

11 I say, your Honor, if that is your Honor's
12 position, then if twenty-five judges on thirty
13 occasions say in the negative to Mr. Schneider,
14 when you say Mr. Sassower has violated Judge
15 Schwartz's order and they don't agree with him,
16 then if your Honor were to find that these
17 twenty-five judges are wrong, then you are going
18 behind their order, or is my reasoning --

19 MR. STRAUS: That's not the nature of the
20 proof. That isn't what we have offered.

21 MR. SASSOWER: I'm saying this, I say show
22 me all the motions that you submitted to all the
23 judges and show me one judge that says Mr. Sassow-
24 er violated the order. That's all.

25 THE REFEREE: The orders of the judges

1
2 have already been received in evidence.

3 MR. SASSOWER: But they don't say that I
4 violated.

5 THE REFEREE: All right, if they don't,
6 it's up to me to decide.

7 MR. SASSOWER: I want to know how. Wait.

8 THE REFEREE: I can read English.

9 MR. SASSOWER: Fine. I want to know.
10 If Mr. Straus will say to me, if Mr. Straus would
11 say to me, "Judge such and such a judge says I
12 violated the order" then I can meet the proof.

13 MR. STRAUS: We have been over this.

14 MR. SASSOWER: I want a bill of particulars.

15 MR. STRAUS: If you wanted additional in-
16 formation you certainly could have requested it.

17 MR. SASSOWER: I did. I went to the
18 Appellate Division.

19 MR. STRAUS: What did they tell you?

20 MR. SASSOWER: You kept saying --

21 THE REFEREE: What did the Appellate Division
22 say?

23 MR. SASSOWER: They denied the motion. They
24 said "Go before the judge appointed." So they
25 appointed you January 30 and I didn't have the

the opportunity.

MR. STRAUS: On January 30 you certainly spoke long enough.

MR. SASSOWER: I told you I was out of the premises for three weeks.

THE REFEREE: Last week on two occasions during that day you told me you had to go to the Appellate Division.

We adjourned at 4 o'clock. We adjourned --

MR. SASSOWER: For subpoenas. How much time did I wait because Mr. Straus said "Get it signed there" and they say you don't need it signed. Then I come to you. I have two legs, your Honor. I would like --

THE REFEREE: What is it you want?

MR. SASSOWER: I'd like the witness to bring all motions that he made.

THE REFEREE: Counselor, we're not interested in the motions. That's not before this Court.

The only matter before this Court as far as judges' orders are the ones submitted by the Grievance Committee.

MR. SASSOWER: That's what I'm saying, that's right, the Grievance Committee says that.

1 THE REFEREE: You have copies of those
2 decisions.
3

4 MR. SASSOWER: I don't have it.

5 MR. STRAUS: You have copies of all of
6 those decision.

7 They were received in evidence and attached
8 to the pleadings.

9 MR. SASSOWER: You have copies of the orders
10 from Judge Greenfield, Judge Schwartz, Judge
11 Sinclair and Judge Gammerman but you haven't given
12 me copies of those judges, of those orders and
13 decisions which say I haven't violated it.

14 MR. STRAUS: I don't have any obligation
15 to do that, Mr. Sassower and it has nothing to
16 do with -- we're going around in circles.

17 MR. SASSOWER: I want a bill of particulars
18 and I want an adjournment for a bill of particu-
19 lars.

20 THE REFEREE: Mr. Sassower --

21 MR. SASSOWER: Yes.

22 THE REFEREE: -- you are not faced with any
23 orders other than the ones offered by the Griev-
24 ance Committee and those that were offered in
25 evidence or received in evidence in this proceeding.

1
2 MR. SASSOWER: Can I ask him a simple
3 question?

4 THE REFEREE: The fact that there may be
5 three hundred or three or thirty orders --

6 MR. SASSOWER: Can I have -- any way they
7 put it, oral, in writing -- can I have a bill
8 of particulars with a statement as to what the
9 Grievance Committee claims.

10 THE REFEREE: They have already given it to
11 you.

12 MR. SASSOWER: Judge, I'm telling you I do
13 not have the material to refute it. I don't
14 have it available.

15 He goes ahead and gets a phony order to
16 show cause representing that -- circumvents the
17 computer --

18 MR. STRAUS: I object.

19 MR. SASSOWER: -- I don't have my papers.

20 MR. STRAUS: It has nothing to do with the
21 charges.

22 This witness has been on the stand almost
23 an hour and he hasn't asked any cross-examination,
24 not a single question.

25 MR. SASSOWER: May I say on the record --

1 THE REFEREE: Everything is on the record.

2 MR. SASSOWER: May I have a subpoena, your
3 Honor.
4

5 THE REFEREE: Are you going to cross-examine
6 this witness or are we going to discuss him?

7 MR. SASSOWER: I want the papers.

8 THE REFEREE: What papers?

9 MR. SASSOWER: I want every motion that he
10 made.

11 THE REFEREE: Already denied.

12 MR. SASSOWER: Wait a second.

13 THE REFEREE: Your application is denied.
14 Continue your cross-examination, if you have any.

15 MR. SASSOWER: I want the records.

16 THE REFEREE: I said denied.

17 MR. SASSOWER: I'm going on.

18 THE REFEREE: Ask a question.

19 MR. SASSOWER: I would like --

20 THE REFEREE: Question.

21 MR. SASSOWER: May I?

22 THE REFEREE: Question?

23 MR. SASSOWER: I'll have to find a document,
24 your Honor. You will have to give me a moment,
25 your Honor. Do you mind?

1
2 Mr. Straus, would you give me my letter
3 to you dated January 22nd, 1985?

4 MR. STRAUS: Your letter to me? Don't
5 you have a copy of it?

6 MR. SASSOWER: I want to get the original.

7 MR. STRAUS: I'll stipulate that you can use
8 a copy, if you want. I have no problem with you
9 using a copy.

10 MR. SASSOWER: Did you receive a copy of
11 that?

12 MR. STRAUS: Cross-examine this witness.

13 THE REFEREE: Mr. Sassower, if you don't
14 have any more questions of this witness, I'll
15 excuse him.

16 MR. SASSOWER: I have many more.

17 THE REFEREE: We have been here now since
18 thirty-five minutes --

19 MR. SASSOWER: Did you receive a copy of
20 this, sir?

21 I'm trying to find the original so I
22 can produce a copy.

23 MR. STRAUS: I haven't objected to a copy.

24 MR. SASSOWER: Okay. Fine.

25 MR. STRAUS: You haven't offered it or have

it marked for identification.

MR. SASSOWER: May I have it marked?

THE REFEREE: Respondent's J for identification.

(Received and marked Respondent's L for identification)

MR. SASSOWER: Did you receive that?

THE REFEREE: Who is it addressed to?

MR. SASSOWER: Mr. Straus and a carbon copy to the others, including Feltman, Karesh and Major.

THE REFEREE: From here I notice it's on your letterhead.

MR. SASSOWER: Yes.

THE REFEREE: It's your letter.

MR. SASSOWER: My letter to Mr. Straus with a carbon copy to Feltman, Karesh and Major. That's why I wanted the original.

THE WITNESS: I don't recall if I saw it.

Q Look at your file and see if it looks familiar.

THE REFEREE: The witness says he doesn't recall.

MR. SASSOWER: Mark it.

MR. STRAUS: It's marked for identification.

1
2 I have no basis -- if you are offering
3 it in evidence, I don't know the relevance of
4 offering this in evidence.

5 That would be my objection.

6 MR. SASSOWER: I offer it in evidence.

7 THE REFEREE: For what purpose?

8 MR. STRAUS: I'd like an offer of proof
9 for the purpose of the offer.

10 MR. SASSOWER: Fine.

11 THE REFEREE: This purports to be a self-
12 serving declaration.

13 MR. SASSOWER: Ante litem motam, okay.

14 MR. STRAUS: I'm afraid I don't understand
15 that.

16 My Latin is a little dead. Could you tell
17 me what that means in English?

18 MR. SASSOWER: Ante litem motam means made
19 before there was any need to fabricate.

20 MR. STRAUS: That's after a complaint was
21 made against you, Mr. Sassower.

22 MR. SASSOWER: No. Did you read it?

23 MR. STRAUS: You didn't offer it to me to
24 read.

25 MR. SASSOWER: Well, all right.

1
2 MR. STRAUS: This is most definitely after
3 a complaint was brought against you, so, whatever
4 your Latin, it's obviously after you have a
5 reason to fabricate; you are the subject of
6 a complaint as of January 22nd, '85.

7 You had been since November of '84.

8 MR. SASSOWER: Fine. This is before the
9 order was signed.

10 This is a phony order that was submitted.

11 MR. STRAUS: It's your statement, it's not
12 the witness' statement.

13 THE REFEREE: You are alluding to orders
14 and you want to go behind the order.

15 MR. SASSOWER: No.

16 THE REFEREE: Yes, you just said it's a phony
17 order.

18 MR. SASSOWER: It's a phony order.

19 THE REFEREE: Did you go to the judge and
20 prove that was a phony order and prove it or
21 go to the Appellate Division?

22 MR. SASSOWER: It's pending in the Appellate
23 Division and it's stated there --

24 THE REFEREE: I'm not a member of the
25 Appellate Division as of yet and it's too late.

I'm barred by age.

Q Mr. Schneider, if three actions were started after December 19, that were included in the order of January 23rd, 1985, who gave you permission to include three actions, these three actions in the order?

MR. STRAUS: Objection.

THE REFEREE: Sustained.

MR. SASSOWER: Your Honor, Judge Hopkins in People against Giglio, Appellate Division -- there are ten Appellate Division decisions on the point.

Judge Potoker says no. Fine. So, let's get the evidence and let the Appellate Division decide it.

THE REFEREE: Sustained.

Q Did you speak to Judge Gammerman, ex-parte, directly or indirectly between December 19 and January 23rd?

MR. STRAUS: Objection.

THE REFEREE: Sustained.

MR. SASSOWER: People against Giglio says no.

THE REFEREE: Sustained.

MR. SASSOWER: Did your Honor read some of these cases?

1 THE REFEREE: Sustained.

2
3 MR. SASSOWER: Are you familiar with the
4 decision of Judge Leonard Cohen?

5 Before we do that, before we get to that
6 with respect --

7 What are you laughing at, Mr. Straus? You
8 are the most unfair prosecutor. Fine.

9 I've got the picture already and I'm going
10 to ask your Honor to give a statement as to
11 whether anybody spoke to you about this case ex-
12 parte.

13 THE REFEREE: Spoke to me about the case?

14 MR. SASSOWER: I would like that statement,
15 your Honor.

16 THE REFEREE: I don't have to give you any
17 statement.

18 MR. SASSOWER: I would request that.

19 THE REFEREE: Don't ever accuse me of speak-
20 ing to anybody without the other side being
21 present.

22 MR. SASSOWER: I didn't say the other side,
23 your Honor.

24 THE REFEREE: You went down the elevator
25 with me at 250 Joralemon Street after the pre-

trial conference, didn't you?

MR. SASSOWER: Pardon me?

THE REFEREE: Did you go down in the same elevator with me at 250 Joralemon Street?

MR. SASSOWER: At 210.

THE REFEREE: Yes, 210. We did so.

MR. SASSOWER: We discussed this matter.

THE REFEREE: We discussed this matter?

MR. SASSOWER: No, we did not.

In thirty-five years I never discussed --

THE REFEREE: I made sure to keep away from you, if you noticed.

MR. SASSOWER: I didn't care if you were right on top of me.

THE REFEREE: If I knew that you were in the elevator I wouldn't have gone on the same elevator.

MR. SASSOWER: Going up or going down. We went down together. We didn't discuss the case.

I offer this document in evidence.

MR. STRAUS: May I see it?

MR. SASSOWER: Exhibit L.

THE REFEREE: I've already said no.

1
2 MR. SASSOWER: On what grounds?

3 MR. STRAUS: I would object. This is a
4 letter from Mr. Sassower to me.

5 MR. SASSOWER: I'm going to ask a question.

6 Q Did Mr. Schneider -- did Mr. Straus make any
7 inquiry of you with respect to the subject matter of this
8 letter?

9 MR. STRAUS: Objection.

10 THE REFEREE: Overruled.

11 A May I review the letter, please?

12 I don't have any recollection of that.

13 Q Would you come next time with your notes and a
14 copy of the letter or whatever else may refresh your recol-
15 lection?

16 MR. STRAUS: The question is, your Honor, as
17 I understand it, is there something --

18 THE REFEREE: He has no recollection whatso-
19 ever.

20 MR. SASSOWER: His firm was served with a
21 subpoena, purposely came empty-handed. Must
22 have know that's going to be granted, to quash it.

23 MR. STRAUS: He realized that it was an
24 invalid subpoena.

25 THE REFEREE: That's a gratuitous statement.

1
2 MR. SASSOWER: Was he instructed last time
3 to come with the book? He did not come even with
4 that.

5 THE REFEREE: Next question.

6 MR. SASSOWER: I'd like him to come in with
7 the records of those dates including his work re-
8 cords which may help him refresh his recollect-
9 ion.

10 THE REFEREE: As to what?

11 MR. SASSOWER: As to the events surrounding
12 that order and that letter.

13 MR. STRAUS: The letter that you sent?

14 MR. SASSOWER: To you, yes.

15 MR. STRAUS: Judge Potoker, there is no
16 indication from the weight that any of that
17 would help refresh his recollection.

18 MR. SASSOWER: It may refresh his recollect-
19 ion.

20 THE REFEREE: Why don't you ask him if it
21 would.

22 MR. SASSOWER: How do I know?

23 MR. STRAUS: You have to ask him if there
24 is anything that would refresh his recollection.

25 MR. SASSOWER: No, he brings it here.

1
2 THE REFEREE: Do you have any documents
3 in your office --

4 THE WITNESS: I don't have the faintest
5 idea of what Mr. Sassower is talking about.

6 Q You have time records, don't you?

7 THE REFEREE: Sir, let's be specific.

8 Q Do you have time records?

9 THE REFEREE: No, no, no. What is it you
10 wish? What do you want?

11 MR. SASSOWER: I want --

12 THE REFEREE: He's not going to bring his
13 whole office.

14 MR. SASSOWER: I asked him for that letter
15 and for the time records of that period.

16 THE REFEREE: Time records for what purpose?

17 MR. SASSOWER: Your Honor, if I tell you
18 the purpose now in front of Mr. Schneider, they
19 are going to be pruned, okay?

20 There is no obligation on my part to announce
21 beforehand so that a witness has a week to
22 prepare.

23 THE REFEREE: Sir, I'll not order a witness
24 to spend minutes or days or hours getting
25 records from his office for no purpose at all.

1
2 MR. SASSOWER: It's my purpose to prove
3 my case.

4 THE REFEREE: To prove what?

5 MR. SASSOWER: To prove, one, that there was
6 no violation of --

7 THE REFEREE: You don't have to prove
8 there's no violation.

9 MR. SASSOWER: They alleged it already.

10 THE REFEREE: Then it's up to me to --

11 MR. SASSOWER: No, that's his contention.
12 That's his evidence which your Honor accepted
13 and now I'm cross-examining. He gave testimony.

14 THE REFEREE: You're not cross-examining.
15 I'm trying to get you to cross-examine.

16 MR. SASSOWER: I am, but I need papers, I
17 need documents.

18 I won't take this man's word for anything.

19 I told you he's, quote, a criminal, okay.
20 If you don't want to believe me, that's your pre-
21 rogative, but don't --

22 MR. STRAUS: That's entirely inappropriate
23 for you to make these remarks.

24 You can't cross-examine so out of frustration
25 you call people names. That's totally inappropriate

1
2 THE REFEREE: Mr. Sassower, I told you
3 this morning and I'm telling you again, I'll
4 not brook any such references, any threats,
5 any accusations.

6 If you have anything to say, say it to the
7 law enforcement agencies.

8 MR. SASSOWER: I want to say it here.

9 THE REFEREE: You are not going to say it
10 here.

11 MR. SASSOWER: If it proves my case --

12 THE REFEREE: You are not going to say it.

13 MR. SASSOWER: Then I'll obey your Honor's
14 wishes, but I want it on the record.

15 THE REFEREE: Sir, everything is on the re-
16 cord.

17 MR. SASSOWER: Mr. Straus, will you concede
18 that you did not inquire of -- if it's wrong, tell
19 me -- did you inquire of the witness with regard
20 to the --

21 MR. STRAUS: I'm not on the stand nor is
22 the question appropriate, if I was.

23 MR. SASSOWER: Let me ask the question then.

24 THE REFEREE: Sir, I have been trying to
25 get you to ask a question since 2:15.

1
2 MR. SASSOWER: I have, and your Honor
3 has stopped me or Mr. Straus has stopped me
4 on every legitimate, pertinent question.

5 I even tried just to prove it, that he made
6 the allegation and I violated the order three
7 times between and your Honor won't let me prove
8 it.

9 THE REFEREE: All I am getting is speeches.

10 MR. SASSOWER: Let me prove my case.

11 THE REFEREE: You can't prove it if it has
12 nothing to do with this case.

13 MR. SASSOWER: He said I violated it.

14 THE REFEREE: Those actions are not before
15 me.

16 You have all the court officers coming in
17 here. The judges are complaining.

18 MR. SASSOWER: Judge, he said I violated
19 it three times.

20 Let me prove that I didn't violate it once.

21 THE REFEREE: Sir, do you want to cross-
22 examine him or do you want to take the stand?

23 MR. SASSOWER: I don't want to take the stand.
24 I want the right to cross-examine.

25 THE REFEREE: You are not cross-examining.

MR. SASSOWER: I certainly am.

THE REFEREE: All you're doing is making speeches.

MR. SASSOWER: I have to make speeches because you don't allow me to cross-examine.

Q What evidence do you have, Mr. Schneider, if you have any --

Mr. Schneider, returning to Judge Klein's order --

THE REFEREE: You stopped in the middle of a question.

MR. SASSOWER: I'm sorry.

Can we have a minute and a half so I can get a drink of water, your Honor.

THE REFEREE: Go ahead.

MR. SASSOWER: Your Honor --

THE REFEREE: Make sure it's water only, that's all.

MR. SASSOWER: I don't know what that means, your Honor.

MR. STRAUS: It was a little levity.

THE REFEREE: Somebody wants to go out and get a quick one? You heard of that. So, if you don't, bring some for us.

(Short pause ensues)

1
2 Q Mr. Schneider, referring to Judge Klein's order,
3 do you contend --

4 THE REFEREE: Is this the criminal contempt
5 conviction?

6 MR. STRAUS: The criminal contempt convict-
7 ion.

8 Q Do you contend that the action by Hyman Raffé
9 against Xavier C. Riccobono violated --

10 MR. STRAUS: Objection. Judge Klein's
11 order speaks for itself.

12 MR. SASSOWER: It doesn't. That's what I'm
13 saying to your Honor.

14 The Attorney-General has conceded right
15 down the line, if you will look at the papers,
16 that --

17 MR. STRAUS: The papers are in evidence
18 plus the affirmance and the denial of your ap-
19 peal.

20 They are all in evidence so they speak for
21 themselves.

22 MR. SASSOWER: Will you let me finish?

23 MR. STRAUS: I've objected to your question
24 on that basis.

25 MR. SASSOWER: Fine. Let me make the record.

1
2 Q Mr. Schneider, did you ever hear the attorney
3 for Xavier C. Riccobono state that the order of Judge
4 Gammerman was not effective as against him, his office,
5 which is Robert Abrams or his client, yes or no?

6 MR. STRAUS: Objection. It wouldn't make
7 any difference if it did or didn't.

8 THE REFEREE: Let him answer.

9 A No.

10 Q You never heard it and you never saw a paper
11 stating that?

12 A That is correct.

13 Q Did you, sir, did you serve the Attorney-General
14 with a copy of Judge Hughes' order to show cause, your
15 office, you or your office?

16 A May I see Judge Hughes' order to show cause?

17 MR. STRAUS: There is an exhibit in evidence
18 as Petitioner's 7.

19 That's the only order of Judge Hughes
20 that I am aware of at this point.

21 THE REFEREE: That's the TRO. That's a
22 temporary restraining order of Justice Hughes,
23 Petitioner's Exhibit 8.

24 A I have no independent recollection, but I presume
25 I would have because Judge Xavier C. Riccobono, Michael

1
2 Dontzin and Sinclair are parties, are defendants to one
3 of the actions in the caption.

4 Q That wasn't the question.

5 Do you have at least one document in your file
6 which states that the Attorney-General concedes, the
7 assistant attorney-general concedes that the order of
8 Judge Hughes -- of Judge Gammerman has, in substance,
9 no force and effect upon Mr. Cook, the Attorney-General
10 or his judicial clients, yes or no?

11 MR. STRAUS: I object to the question.
12 It has no relevance and he's going to go into
13 all other areas.

14 MR. SASSOWER: Excuse me, Judge, if there
15 is a judgement --

16 THE REFEREE: Let's assume that the Attorney-
17 General did do that, what's the relevance?

18 MR. SASSOWER: There is no jurisdiction.

19 MR. STRAUS: On the basis of his statement,
20 that wouldn't effect the order.

21 MR. SASSOWER: Judge, let --

22 THE REFEREE: Do we have a superseding order?

23 MR. SASSOWER: We can't get it.

24 THE REFEREE: You don't have it?

25 MR. SASSOWER: I didn't say that. Yes, I

do have a superseding order. You can offer it.

MR. STRAUS: You can offer it in evidence.

Q Did Judge Cohen, Leonard P. Cohen C-O-H-E-N,
refuse to honor Judge Gammernan's order?

MR. STRAUS: Objection.

THE REFEREE: That's not a superseding
order.

MR. STRAUS: It wouldn't make any difference
if the answer were yes.

MR. SASSOWER: They're all disregarding it.
Okay. All the judges.

MR. STRAUS: If you want to make that state-
ment, do it on the witness stand. That's no
cross-examination.

MR. SASSOWER: Mark this. I'll get the
document in.

THE REFEREE: That's "M" for identification.

MR. STRAUS: It wouldn't make any difference.

MR. SASSOWER: You say that. Maybe the
Appellate Division will disagree with you, Mr.
Straus.

MR. STRAUS: And you have an adequate record
to go to the Appellate Division on.

MR. SASSOWER: I want to produce the record

here.

MR. STRAUS: That's the record that you can go on.

THE REFEREE: I'll not permit you to use this forum for an action that may be pending elsewhere.

MR. SASSOWER: Where did you understand there was an action pending elsewhere?

THE REFEREE: From what you said just now.

MR. SASSOWER: What did I say, Judge?

THE REFEREE: You know what you said.

MR. SASSOWER: What did I say that tells you that there is an action elsewhere?

THE REFEREE: You said you went to the Appellate Division. That's what you are trying to do.

MR. SASSOWER: I don't follow your statement. Aren't I allowed to go to the Appellate Division?

THE REFEREE: Sure you can. You can go to the Court of Appeals.

MR. SASSOWER: So? So?

THE REFEREE: You are here for one purpose and one purpose only, to conduct a hearing as

1
2 to the issues really.

3 MR. SASSOWER: I'm trying to find out
4 what's relevant.

5 THE REFEREE: We're not going to try any
6 other matters.

7 I don't care what the Attorney-General said.
8 The Attorney-General as far as I'm concerned, as
9 of this moment, is not a party to this proceed-
10 ing.

11 MR. SASSOWER: If the Attorney-General would
12 come here to testify and I intend to produce him,
13 okay, an assistant attorney-general --

14 THE REFEREE: To say what?

15 MR. SASSOWER: To say that he has conceded
16 right along that the Judge Gammerman orders in
17 substance are without force and effect against
18 him, his office and his client.

19 THE REFEREE: When did they do that?

20 MR. SASSOWER: There are affidavits filed
21 to that effect.

22 THE REFEREE: When did he do that?

23 MR. SASSOWER: Almost immediately.

24 THE REFEREE: When?

25 MR. SASSOWER: I don't have the dates offhand.

1 THE REFEREE: Two years ago.

2 MR. SASSOWER: No. February, March.

3 THE REFEREE: What year?

4 MR. SASSOWER: In '85.

5 THE REFEREE: What did you do since then,
6 armed with what the Attorney-General said, did
7 you go back to Judge Gammerman?

8 MR. SASSOWER: He wouldn't give me permis-
9 sion. The whole thing is a fraud. The man is
10 part of the thievery.

11 THE REFEREE: He wouldn't give you permis-
12 sion.

13 MR. SASSOWER: I'm saying he's part -- he's
14 been called one of the -- okay.

15 MR. STRAUS: It has nothing to do with
16 cross-examination.

17 We have a witness on the stand.

18 MR. SASSOWER: Fine, your Honor is absolutely
19 correct on formal circumstances, but if you
20 would look at the order, the order says --

21 THE REFEREE: It will speak for itself.

22 MR. SASSOWER: It doesn't speak for itself
23 because the Supreme Court of the United States
24 has said those orders are no good.
25

1 THE REFEREE: Sir, you did not object to
2 its being received in evidence and, therefore,
3 it speaks for itself.
4

5 MR. SASSOWER: As an order, as a valid
6 order.

7 THE REFEREE: You --

8 MR. SASSOWER: Not as a valid order.

9 THE REFEREE: Mr. Sassower, again I call
10 your attention to the hour.

11 Please continue with your cross-examination.

12 (Respondent's Exhibit M for Identification
13 marked)

14 MR. SASSOWER: This is an order from the
15 Supreme Court, Kenneth L. Shorter.

16 MR. STRAUS: Do you want to make an offer?

17 MR. SASSOWER: I offer it in evidence.

18 MR. STRAUS: Objection. It has no relevance.

19 MR. SASSOWER: You don't know what the rele-
20 vance is.

21 THE REFEREE: Wait a minute, Mr. Sassower.
22 Objection is sustained.

23 MR. SASSOWER: On what grounds?

24 THE REFEREE: On what grounds?

25 MR. SASSOWER: Yes.

THE REFEREE: Nothing in this document that relates to the issues before me.

MR. SASSOWER: Fine, fine. Let me tie it in.

Q Mr. Schneider, Exhibit M is an order based upon a motion made by your firm, is that correct?

A Would you like to show it to me?

Q Sure. I thought you saw it.

A What was the question?

Q Was that an order issued pursuant to a motion made by your firm?

THE REFEREE: What motion?

MR. SASSOWER: A motion made by his firm.

THE REFEREE: I'm not interested in any motion, sir.

His firm may have made tens of thousands of motions.

MR. SASSOWER: This is a specific motion. I'm going to ask him what was the motion for.

Do you want me to ask one question at a time, your Honor?

THE REFEREE: Go ahead.

A Yes, the order, recites that it was a motion made by the receiver that my firm represents.

1
2 Q You don't have those motion papers here, do
3 you?

4 THE REFEREE: Do you recall what the motion
5 was about?

6 THE WITNESS: Only what may be suggested
7 by what's in the order.

8 I have no independent recollection.

9 THE REFEREE: What does that suggest to you?

10 THE WITNESS: The order recites that it was a
11 motion by the receiver to vacate those two notices
12 of motion.

13 Q On what grounds did you, your firm, want to va-
14 cate two notices of motion?

15 MR. STRAUS: Objection.

16 THE REFEREE: Sustained.

17 MR. SASSOWER: On what basis?

18 MR. STRAUS: It's irrelevant.

19 THE REFEREE: I don't have to tell you every
20 time on what basis.

21 MR. SASSOWER: I think, your Honor, Lightfoot
22 against somebody --

23 THE REFEREE: Your position has not changed.
24 You are trying to get around --

25 MR. SASSOWER: I'm not getting around.

1
2 I'm saying you are, your Honor, are
3 getting around because this is an order of the
4 court which under your Honor's thesis has to
5 be obeyed.

6 THE REFEREE: I sustained the objection.

7 Q Could you bring the motion papers here next time?

8 MR. STRAUS: Are you asking for a direction
9 that he be directed to bring them?

10 MR. SASSOWER: First, I'm asking if he can
11 physically bring it, then I'll ask for a direct-
12 ion.

13 THE REFEREE: Relevancy, sir, as of this
14 moment.

15 MR. SASSOWER: Judge Cardozo said --

16 THE REFEREE: Please. Don't tell me what
17 Judge Cardozo said.

18 We can sit here for years and debate what
19 great judges --

20 MR. SASSOWER: I'll tie it in as to what is
21 relevant.

22 THE REFEREE: As to what Cardozo said?

23 MR. SASSOWER: No, as to how that order
24 was relevant.

25 THE REFEREE: Tell me now before I order

him to bring anything in.

MR. SASSOWER: Because your Honor is stating --

THE REFEREE: Sir, just tell me how --

MR. SASSOWER: I'm saying that I can name right now about five or six judges of the Supreme Court of the County of New York, and, mind you --

THE REFEREE: Who did what?

MR. SASSOWER: Who are refusing to obey Judge Gammerman's order.

THE REFEREE: That doesn't mean anything.

MR. SASSOWER: They think it's not good.

THE REFEREE: So you go to the Appellate Division and you can say "Honorable Ladies and Gentlemen" --

MR. SASSOWER: I'm winning on these motions. I don't go to the Appellate Division.

THE REFEREE: You don't go.

MR. SASSOWER: When I win?

THE REFEREE: You have won.

MR. SASSOWER: Yes, all the judges are saying it's no good.

They are saying Judge Gammerman's order is no good.

1
2 THE REFEREE: But the order is still in
3 effect. Nobody has vacated the order. Nobody
4 has superseded the order.

5 The judges are saying it's no good as far
6 as the issues before them at that particular
7 moment may be concerned.

8 MR. SASSOWER: Judge Gammerman's said --

9 THE REFEREE: Let's go on.

10 MR. SASSOWER: I want a record here.

11 THE REFEREE: Sir --

12 Q Mr. Schneider, are you familiar with that order?
13 I think it was May 30th.

14 THE REFEREE: What year?

15 MR. SASSOWER: In 1985, wherein it was
16 asserted that the motion made by me was violative
17 of Judge Gammerman's order and do you know
18 what the decision by Judge Cohen was?

19 MR. STRAUS: Objection. We have had this
20 six times, at least.

21 THE REFEREE: Judge Cohen's order is not
22 before me.

23 The matter before Judge Cohen is not before
24 me and it is not relevant.

25 MR. SASSOWER: I'm saying the interpretation

or disregard --

THE REFEREE: What you are saying is that despite Judge Gammerman's order, I have six other judges who said, "We don't want to go along with it," therefore, Judge Gammerman's order is null and void. Two and two equal four.

MR. SASSOWER: No, no. I'm saying one thing further than that.

If I have six judges who say, "Sassower, you are not violating Judge Gammerman's order, if you are not violating Judge Gammerman's order" --

THE REFEREE: No judge can tell you that you are not violating an order except as to specific issues before them at that time.

MR. SASSOWER: Right.

MR. STRAUS: If your Honor please, we have been down this road all afternoon and Mr. Sassower continues to pursue the same line.

If he doesn't have any other line of examination, I would ask that his cross-examination be terminated.

Unless, if you are not pursuing --

THE REFEREE: Mr. Sassower, please

1
2 continue with your cross-examination.

3 MR. SASSOWER: Fine.

4 THE REFEREE: I should say relevant cross-
5 examination.

6 MR. SASSOWER: I'll make my record whether
7 your Honor thinks it's relevant, it's for the
8 Appellate Division to decide.

9 THE REFEREE: Again you're making speeches.

10 Q Did Judge Bruce Wright render a decision on its
11 merits?

12 THE REFEREE: Again --

13 MR. SASSOWER: Judge, let me finish the
14 question.

15 MR. STRAUS: Objection.

16 THE REFEREE: Lump the judges together.

17 MR. STRAUS: You can ask if any judge did
18 it. There's no point in dragging this out.

19 MR. SASSOWER: Please.

20 THE REFEREE: Don't tell me "please."

21 MR. SASSOWER: Let me make the question.
22 I have follow-up questions to these.

23 THE REFEREE: No.

24 MR. SASSOWER: Let me finish this question,
25 then I'll try to lump them up.

1
2 Q Did Judge Bruce Wright --

3 THE REFEREE: Sir, we just went throught
4 it. I'm not interested in what Judge Bruce
5 Wright said or did.

6 MR. SASSOWER: All right.

7 Q Mr. Schneider, did you make motions in Supreme
8 Court, New York County within the last four months?

9 MR. STRAUS: Objection.

10 MR. SASSOWER: Wait a second.

11 MR. STRAUS: Objection.

12 MR. SASSOWER: Wait a second.

13 Q Wherein you did not go by order to show cause?

14 MR. STRAUS: Objection.

15 THE REFEREE: Sustained.

16 MR. STRAUS: I'm saying he's even violating
17 it. He doesn't obey it.

18 THE REFEREE: Sustained.

19 MR. SASSOWER: Judge, I'd like --

20 THE REFEREE: Sustained. If he doesn't obey
21 it, that's one thing.

22 You are being charged with not obeying it.

23 MR. SASSOWER: And if he's not obeying it
24 and nobody is obeying it and all the -- and all
25 the decisions say --

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THE REFEREE: I won't let you finish

because I have heard it time and time and time
again and it goes back to the same --

Q I drew your attention -- I draw your attention
to, starting with 3 -- on Page 3 --

MR. STRAUS: Mr. Sassower, the record
doesn't indicate Page 3 of what?

MR. SASSOWER: I'll come to it.

Q -- until Page 12 of my affidavit dated November
18, 1985, and ask you if Mr. Straus ever made inquiry of
you as to those matters?

MR. STRAUS: Objection.

Q Yes or no?

THE REFEREE: Objection sustained.

MR. STRAUS: Objection.

THE REFEREE: Sustained.

MR. SASSOWER: Did your Honor look at it?

THE REFEREE: Sustained.

MR. SASSOWER: On what grounds?

THE REFEREE: Next question.

MR. SASSOWER: On what grounds?

THE REFEREE: Mr. Schneider, did Mr. Straus
ever tell you how to testify in this courtroom
today?

1
2 THE WITNESS: No, he did not.

3 MR. SASSOWER: I'm not asking that.

4 THE REFEREE: I am.

5 MR. SASSOWER: I'm sorry. I thought you
6 misunderstood my question.

7 May the record show that his Honor didn't
8 even look at the document as to what it says
9 in there before sustaining the objection.

10 THE REFEREE: Next question.

11 MR. SASSOWER: I don't know on what basis.
12 May I know the basis for the sustaining of
13 the objection?

14 THE REFEREE: Next question.

15 MR. SASSOWER: I don't know on what basis.

16 THE REFEREE: Next question.

17 MR. SASSOWER: May I know the basis for
18 sustaining the objection?

19 THE REFEREE: Next question. You are
20 reading from your own document, a self-serving
21 document.

22 MR. SASSOWER: Served --

23 THE REFEREE: It's your document.

24 MR. SASSOWER: I'm asking him if he asked him
25 that information.

1
2 THE REFEREE: What for?

3 MR. SASSOWER: The subject matter of
4 that document.

5 THE REFEREE: What subject matter of the
6 document? The document that's not in evidence?

7 MR. SASSOWER: It's filed with the Appellate
8 Division.

9 Would you please mark it, please?

10 MR. STRAUS: Do you want to mark it for
11 identification?

12 MR. SASSOWER: I'd like to mark it in evi-
13 dence.

14 MR. STRAUS: May I see it?

15 MR. SASSOWER: Surely. You have a copy of it.

16 MR. STRAUS: I don't know that I have a
17 copy until I see it.

18 THE REFEREE: Mr. Sassower, when Mr. Straus
19 wants a copy of it, you say you have a copy of
20 it, if he says you have a copy of it, you storm
21 the Bastille.

22 MR. SASSOWER: Judge, do you listen to me?
23 I was chased from my house, okay, okay. If I
24 wasn't chased from my house, I would have it also,
25 but, apparently, you keep turning and twisting

things around.

THE REFEREE: No. The only reason that I am turning and twisting is to get away from your harangue.

MR. SASSOWER: Fine. How many times must I say the same thing to your Honor?

MR. STRAUS: Objection on the grounds of relevance.

This is apparently the papers in support of an order to show cause which Mr. Sassower sought seeking a stay. The stay was denied, as evidenced from the fact that we're proceeding with this hearing.

MR. SASSOWER: I'm asking a certain question as to whether he discussed that question with Mr. Schneider.

THE REFEREE: Did you discuss any of that particular subject matter?

THE WITNESS: I've never seen that document before. It wasn't served on me. I wasn't a party to it.

Q I know, but I'm asking you whether he discussed these matters.

MR. STRAUS: Not what's in the document, the

subject.

THE REFEREE: What matters are you asking him about?

MR. SASSOWER: The engineered larceny.

THE REFEREE: What?

MR. SASSOWER: The engineered larceny of judicial trust funds, the perjury --

THE REFEREE: Sir --

MR. SASSOWER: Judge, let me finish a sentence. You asked a question. This doesn't interest you. People steal money and this doesn't mean anything to your Honor, that judges have their hands in the trust fund and we have the documents and everything else and these guys have been stealing. That doesn't interest your Honor.

What interests your Honor is that a corruptly secured order which was not violated, by the way --

THE REFEREE: Mr. Sassower, Mr. Sassower --

MR. SASSOWER: I know you weren't born in Australia.

THE REFEREE: There are hungry law enforcement agents looking for front-page publicity. They'll eat up everything you have to tell them. Don't tell it to me. I'm not here for that purpose

1
2 MR. SASSOWER: I didn't come here. They
3 brought me here.

4 THE REFEREE: Let's adhere to the rules.

5 MR. SASSOWER: The rules are --

6 THE REFEREE: The rules are --

7 MR. SASSOWER: Are you, are you striking out
8 my defense?

9 THE REFEREE: I'm not answering you. Do you
10 have any more cross-examination?

11 MR. SASSOWER: A lot of it. I have a lot of
12 it.

13 THE REFEREE: You haven't asked a question
14 yet.

15 MR. SASSOWER: Give me, give me the schedules,
16 please, if I may, the official schedules.

17 THE REFEREE: You don't say, "Give me the
18 schedules."

19 MR. SASSOWER: Please, I said.

20 THE REFEREE: You want an exhibit?

21 MR. SASSOWER: Yes, 10 and 11.

22 MR. STRAUS: They are marked for identifi-
23 cation.

24 THE REFEREE: Yes, 10 and 11 are for iden-
25 tification, Schedule 1 and the additions to

Schedule 1.

MR. STRAUS: Mr. Sassower has copies of those.

THE REFEREE: He said the sheriff forced him to hide everything underground.

MR. SASSOWER: Judge, this has the markings on it and I can read from it, if I use mine I won't have it marked.

Q I think you testified that on Petitioner's Exhibit 1 --

THE REFEREE: , Petitioner's Exhibit 1 is the order of Justice Schwartz.

MR. SASSOWER: On Petitioner's 10, Item Number 1.

THE REFEREE: Oh. Petitioner's 10 is what you have in your hands.

You have 26 cases on one and three on the other.

MR. SASSOWER: Which items were excluded on Petitioner's 10?

MR. STRAUS: I think one, three.

Q Could you tell me, Mr. Schneider, one, Item 2, whose order that violates?

MR. STRAUS: Objection. The witness doesn't

1
2 have to testify to this.

3 MR. SASSOWER: He prepared the schedules.

4 MR. STRAUS: He did not prepare the sched-
5 ules. The schedules are submitted by the Griev-
6 ance Committee, sir.

7 MR. SASSOWER: Fine, then you will take
8 the stand.

9 MR. STRAUS: When I'm on the stand, if and
10 when the Judge directs me to take it.

11 There is a witness on the stand and you
12 haven't cross-examined him.

13 If you don't have any cross-examination, why
14 don't you let him go?

15 Q Do you contend that Item 2 violates an order
16 of the Supreme Court?

17 MR. STRAUS: Objection.

18 THE REFEREE: Sustained.

19 Q Did you tell Mr. Straus that Item 2 violated
20 a court order, yes or no.

21 A Yes.

22 Q When you told Mr. Straus that Item 2 violated a
23 court order, did you tell him what court order it violated
24 and how?

25 A I have told him what, the court order it violated.

1
2 Q When you told Mr. Straus that Item 2
3 violated a court order, did you tell him what court order
4 and how?

5 A I have told him what court order it violated.

6 Q And how? Did you tell him how it violated it?

7 A Yes.

8 Q Did you tell him in writing or orally?

9 A Orally to the best of my recollection.

10 Q You don't know if Mr. Straus was taking notes
11 at the time, do you?

12 A No, I don't.

13 MR. SASSOWER: Mr. Straus, I ask you to pro-
14 duce those notes.

15 MR. STRAUS: There aren't any.

16 MR. SASSOWER: Are you saying you didn't take
17 notes?

18 MR. STRAUS: That's correct. As a matter of
19 fact, I told Mr. Schneider that I was not taking
20 notes of the conversation.

21 Q Approximately when did this conversation take
22 place?

23 A On a number of occasions.

24 Q At no time did you tell him what order Item 2
25 violated?

1
2 A That contradicts what I just said under oath,
3 Mr. Sassower.

4 Q Tell us what you said.

5 A I previously testified that I did tell Mr.
6 Straus what order.

7 Q In writing?

8 A That's not the question.

9 Q In writing, did you ever tell him whose order
10 it violated?

11 A I don't recall.

12 Q Can you look through your papers?

13 MR. STRAUS: Objection. I don't think it's
14 relevant to this proceeding as to this witness'
15 opinion as to which order it violated.

16 That's a decision for the Referee to make
17 based upon the evidence we presented.

18 We specifically did not ask any testimony
19 on direct from Mr. Schneider as to which orders
20 were violated by which actions.

21 That's a subject that Mr. Sassower continues
22 to try to pursue on cross-examination. It has
23 nothing to do with the direct examination.

24 MR. SASSOWER: I'd like, your Honor, a bill
25 of particulars in this case.

1
2 MR. STRAUS: Not again, Mr. Sassower, not
3 again.

4 You have asked for it ten times.

5 MR. SASSOWER: I'd like, I'm entitled to
6 the specifications, I believe.

7 THE REFEREE: Sir --

8 MR. SASSOWER: Okay. Don't go through it.

9 THE REFEREE: You received specifications
10 and you answered those specifications.

11 MR. SASSOWER: It says nothing. It says --

12 THE REFEREE: I know what it says.

13 MR. SASSOWER: It says "violated court or-
14 ders." What court orders.

15 Q Item 2, violates --

16 THE REFEREE: Wait. You have made a state-
17 ment. What court orders?

18 MR. SASSOWER: What court orders?

19 THE REFEREE: Schedule 1, the specifications,
20 lawsuits commenced in violation of court orders.

21 MR. SASSOWER: What court orders?

22 MR. STRAUS: The exhibits were annexed to
23 the pleadings.

24 MR. SASSOWER: I'll put it a different way.

25 Q Mr. Schneider, Number 2, have you got that

1
2 complete file in your office?

3 A I would believe so.

4 Q Now, did you handle that file on behalf of
5 your office?

6 A I was one of the attorneys.

7 Q You are familiar with the entire file.

8 A Mr. Sassower, it was four years ago. I recall
9 the disposition of that action.

10 Q Do you remember, at any time, that your firm
11 contended that such action violated a court order?

12 MR. STRAUS: Objection.

13 A Yes or no.

14 Q In the entire litigation, they never --

15 THE REFEREE: It doesn't make any difference
16 whether his office defended it or not.

17 All his office did, apparently, was go to
18 the Grievance Committee by writing or personally
19 and recite certain facts.

20 MR. SASSOWER: Your assumption is wrong, and --

21 THE REFEREE: You mean Mr. Straus sat down
22 and made this all up himself?

23 MR. SASSOWER: I'll tell you why it's
24 wrong. You check the common areas.

25 He just copied what he wrote.

1
2 MR. STRAUS: He testified that he gave
3 us the information.

4 MR. SASSOWER: They copied it.

5 MR. STRAUS: What does that have to do with
6 anything?

7 He said he was the complainant.

8 MR. SASSOWER: Wait a second.

9 THE REFEREE: Mr. Sassower --

10 MR. SASSOWER: May I make a record?

11 THE REFEREE: Sir --

12 MR. SASSOWER: The errors that he alleged
13 in his papers are duplicated in Mr. Straus'
14 papers.

15 Therefore, okay, consistently, therefore, it
16 reveals, besides other ways, it reveals that
17 all Mr. Straus did was take the information that
18 Mr. Schneider gave him and put it in his back,
19 period, and if you look at Mr. Straus' work
20 sheets, you will probably get that same impression.

21 MR. STRAUS: We also have sixty-three counts
22 sustained by Judge Evans, and that's in there too.

23 THE REFEREE: You made the statement for
24 the record. Now continue.

25 Q Is there any place in that lawsuit where you

1
2 allege that that lawsuit violated any order of the court,
3 yes or no?

4 MR. STRAUS: Objection. That same question
5 was asked and objection was sustained.

6 MR. SASSOWER: If he in all his papers said
7 that that action violated any order and then he
8 comes around four years later and says, "Mr.
9 Straus, this action violated an order," your
10 Honor doesn't think that's relevant?

11 THE REFEREE: It's up to Mr. Straus on
12 behalf of the Grievance Committee to prove the
13 allegations.

14 He may have filed the initial complaint.

15 MR. SASSOWER: But Mr. Straus did nothing
16 and if you want to hear it, let's get it from
17 Mr. Straus.

18 THE REFEREE: Mr. Straus must have done
19 something. We're here at a hearing.

20 MR. SASSOWER: Mr. Straus only copied this.
21 He prepared it. He copied the documents. The
22 same garbage, and I'm asking a question.

23 THE REFEREE: You are not asking a question.

24 Q Mr. Schneider, in any of those papers, did you
25 allege or did your firm allege that such action violated

1
2 a court order?

3 MR. STRAUS: Objection.

4 THE REFEREE: Sustained.

5 Q Let's go to the next one.

6 MR. STRAUS: Judge Potoker, if it's Mr.
7 Sassower's intention to follow the same question
8 with respect to each of these, in view of your
9 ruling, then clearly this calls for a ruling
10 terminating this area of a cross-examination.

11 THE REFEREE: I don't know what his next
12 question is.

13 MR. STRAUS: He said he'll go on with --

14 MR. SASSOWER: I'd like his papers so I
15 can prove certain things. But apparently your
16 Honor a defendant is not entitled to --

17 Q You were asked by his Honor to bring a record
18 on appeal which you prepared on appeal.

19 MR. SASSOWER: Does your Honor recall that,
20 your Honor?

21 THE REFEREE: I do not.

22 Q I repeat to you, Mr. Schneider and I'm sure
23 you recall that his Honor asked you to bring a particular
24 record on appeal and you said to me, you have a copy
25 and I said --

MR. STRAUS: Is this a question?

MR. SASSOWER: I'm refreshing his recollection.

A I recall Mr. Sassower making the request.

THE REFEREE: You recall following that request up?

THE WITNESS: I don't recall. I did check my files and I don't find it in there and the reason I don't is because it was Mr. Sassower's record on appeal.

Q Whose record on appeal is this?

THE REFEREE: You have shown him a beat-up file with all the papers.

MR. SASSOWER: With missing papers, right.

THE REFEREE: That will be "O" for identification.

(Marked Petitioner's Exhibit O for identification)

Q Whose record on appeal is that, who prepared it?

THE REFEREE: Wait a minute, sir. Whose record and who prepared it?

MR. SASSOWER: Whose record and who prepared it?

1
2 THE REFEREE: No. It could be your re-
3 cord and somebody else prepared it for you.

4 MR. SASSOWER: I don't mean it in that
5 sense.

6 MR. STRAUS: Excuse me. Is this the subject
7 of which you were addressing before, the papers
8 that you asked Mr. Schneider to produce. Is
9 that what these papers are?

10 MR. SASSOWER: I asked him to produce the
11 book, that's all, the record on appeal.

12 THE REFEREE: Go ahead, sir.

13 A The actions which I advised the Grievance
14 Committe that Mr. Sassower instituted in violation of
15 the temporary restraining order is as follows.

16 Hyman Raffe, individually and on behalf --

17 THE REFEREE: You are not reading from a
18 document. You are reading from Petitioner's 8.

19 Q Could you give us the number of lawsuits?

20 A I'm reading from Pages 8. Hyman Raffe individual-
21 ly and on behalf of Puccini Clothes, Ltd., Plaintiff,
22 against Jerome H. Barr and Citibank, N.A., as executors
23 of the last will and testament of Milton Kaufman and Lee
24 Feltman, Defendants.

25 The second action is Hyman Raffe, Plaintiff,

1
2 against Edward Weissman, Defendant.

3 The third action is Hyman Raffe, individually
4 and on behalf of Puccini Clothes, Ltd, Plaintiff, against
5 Donald Diamond, Jerome H. Barr and Citibank, N.A.,
6 individually and as executors of the Estate of Milton
7 Kaufman and Lee Feltman, Defendants.

8 Q Mr. Schneider, to refresh your recollection --

9 THE REFEREE: He didn't say he needs his
10 recollection refreshed.

11 MR. SASSOWER: I understand that.

12 THE REFEREE: Just ask your question.

13 Q Under oath --

14 MR. STRAUS: He knows he's under oath Mr.
15 Sassower.

16 MR. SASSOWER: Mr. Straus, please.

17 MR. STRAUS: You should not be reminding
18 the witness.

19 Q Mr. Schneider, right now, are you telling -- and,
20 if you need anything to refresh your recollection, please
21 tell me -- are you telling me --

22 THE REFEREE: Would you ask the question?

23 Q -- are you telling the Court that on Decem-
24 ber 19, 1984, Judge Gammernan in an oral decision from the
25

1
2 bench extended the temporary injunction of Mr. Justice
3 Hughes and prohibited the bringing of those three law-
4 suits, yes or no?

5 A He certainly did and, in fact, that's recited
6 two times in Judge Gammerman's own order which he signed.

7 MR. STRAUS: Your Honor, the witness is
8 trying to answer and Mr. Sassower is trying to
9 stop him.

10 THE REFEREE: I know but I'm permitting him
11 to answer.

12 MR. SASSOWER: Let him answer.

13 MR. STRAUS: Only for this reason, it's
14 impossible for the Reporter to take down the
15 witness's answer while Mr. Sassower is interrupt-
16 ing it.

17 THE REFEREE: The Reporter knows if he doesn't
18 get it, he'll let me know and we'll start over
19 again.

20 Go ahead.

21 Q Mr. Schneider --

22 THE REFEREE: The Court Reporter will read
23 back the last response of the witness.

24 (So repeated)

25 Q We're talking about what the judge did on

December 19 --

A May I finish?

THE REFEREE: Continue, Mr. Schneider.

A In his permanent injunction order dated January 23, 1985, which is Petitioner's Exhibit 8 --

Q I'm asking you --

THE REFEREE: Wait until the witness --

MR. SASSOWER: He finished.

THE REFEREE: That's what you say. I --

A The reference in Judge Gammerman's order is -- having extended the TRO is contained on Page 6 and again on Page 9 of that order.

Q I didn't ask you what it says in that order.

I'm saying what Judge Gammerman did on December 19 which he says I violated between December 19 and January 9.

MR. STRAUS: Is that a question?

THE REFEREE: Continue.

Q I show you an exhibit --

THE REFEREE: What exhibit?

Q A transcript.

MR. STRAUS: Show it to him.

MR. SASSOWER: I'd like it marked for identification.

1
2 THE REFEREE: We've already spoken about
3 the exhibit.

4 Subsequent to that transcript Mr. Justice
5 Gammernan signed that order, did he not?

6 MR. SASSOWER: Yes, but --

7 THE REFEREE: Wait a minute. Did he not?
8 If you found fault with that order at that time,
9 that was the proper time to challenge it, not
10 now and not here.

11 MR. SASSOWER: Now, will you listen? Will
12 you please listen for a moment?

13 THE REFEREE: I've been listening.

14 MR. SASSOWER: No, you haven't been list-
15 ening.

16 THE REFEREE: Sir --

17 MR. SASSOWER: Now, let's start from
18 scratch and let's listen.

19 THE REFEREE: We're not going to start from
20 scratch.

21 MR. SASSOWER: On this particular subject,
22 on December 9 --

23 THE REFEREE: No, no, no.

24 MR. SASSOWER: I'd like this marked for
25 identification.

1
2 THE REFEREE: We've already marked it for
3 identification.

4 MR. SASSOWER: I don't think you did, did
5 you?

6 MR. STRAUS: It was marked in connection
7 with your offer of proof, I think.

8 MR. SASSOWER: No, it wasn't.

9 THE REFEREE: Go ahead.

10 MR. SASSOWER: You are right.

11 Q I show you Respondent's F for identification and
12 ask you to the best of your recollection, one, does it
13 represent a true transcript of the proceedings before
14 Judge Gammernan on December 19, 1984; and, second --

15 MR. STRAUS: Objection. It doesn't matter.
16 He's answered that already.

17 THE REFEREE: And, second --

18 Q And, second, did you submit that transcript to
19 the court?

20 MR. STRAUS: Objection.

21 Q -- as a true and valid transcription?

22 MR. STRAUS: Sustained.

23 MR. SASSOWER: On what grounds?

24 THE REFEREE: Sir, will you listen?

25 MR. SASSOWER: Let me talk on the record,

1
2 and --

3 THE REFEREE: Everything is for the record.

4 MR. SASSOWER: I hope your Honor listens.

5 THE REFEREE: Sir, I've been listening
6 patiently.

7 MR. SASSOWER: Fine. Let's understand. On
8 December 19, there was a proceeding before
9 Judge Gammerman.

10 MR. STRAUS: Is this an offer of proof?

11 THE REFEREE: You have already indicated --
12 I've already indicated to you that if there was
13 anything wrong with Judge Gammerman's order
14 that was in conflict with the transcript, it was
15 your duty at that time, in that place, to move
16 to set it aside.

17 MR. SASSOWER: You haven't heard the rest of
18 the story.

19 THE REFEREE: There is nothing to hear in
20 this forum.

21 MR. SASSOWER: A person, a judge who says
22 there's nothing to hear, you have heard every-
23 thing, should not sit as a judge where I'm the
24 attorney, that's all.

25 MR. STRAUS: There are many people who

1 shouldn't sit where you're the attorney.

2 MR. SASSOWER: Okay. It speaks for itself.

3 THE REFEREE: That's the first time you said
4 it speaks for itself.

5 I've been trying to communicate that to you
6 throughout this proceeding.

7 Q Mr. Schneider, you remember --

8 MR. SASSOWER: I'm reading from Respondent's D
9 for identification.

10 THE REFEREE: Don't read from it. It's not
11 evidence.

12 MR. SASSOWER: I'm making an offer of proof.

13 THE REFEREE: Sir --

14 MR. SASSOWER: I want to make an offer of
15 proof.

16 THE REFEREE: You already --

17 MR. SASSOWER: Let me make my offer of proof,
18 your Honor. I'll take it up with the Appellate
19 Division. The court --

20 MR. STRAUS: There's been --

21 THE REFEREE: I've already said no.

22 MR. SASSOWER: I can make an offer of
23 proof, your Honor.

24 THE REFEREE: But that's all you are doing
25

throughout the entire proceeding.

MR. SASSOWER: Fine, then I'll make an offer of proof.

MR. STRAUS: You have repeated that.

MR. SASSOWER: Mr. Straus, I'm allowed as a matter of constitutional law to make a record to show the judge is wrong.

MR. STRAUS: You have made an adequate record.

MR. SASSOWER: You don't tell me what an adequate record is.

THE REFEREE: Mr. Sassower --

MR. SASSOWER: Mr. Straus, may I make a record?

THE REFEREE: No, sir, not now.

MR. SASSOWER: Please.

THE REFEREE: No, sir.

MR. SASSOWER: Not now. When will I be able to make a record?

THE REFEREE: You have been making it right along but you are not going to be able to repeat yourself.

Next question.

Q Mr. Schneider, have you any documents in your

possession or in your office which states that on
December 19, 1984, Mr. Justice Gammerman extended Judge --

MR. STRAUS: Objection.

THE REFEREE: Sustained.

MR. SASSOWER: Your Honor, the charge --

THE REFEREE: Sustained.

MR. SASSOWER: I'm making a record.

THE REFEREE: You already have made the re-
cord.

MR. SASSOWER: Don't tell me. I want to
make a better record.

THE REFEREE: Sustained. Go ahead.

MR. SASSOWER: Mr. Straus, are you charging
me with violating Judge Gammerman's order or
Judge Hughes' order between December 19 and
January 23rd, yes or no?

MR. STRAUS: I'm not on the stand. The
petition speaks for itself.

MR. SASSOWER: I'm saying it does and
obviously it doesn't.

MR. STRAUS: You are going behind the order.

MR. SASSOWER: This is before the order
was signed, before the order was signed, Mr. --

MR. STRAUS: Mr. Sassower, you don't

1
2 have a right to repeat yourself over and over.

3 MR. SASSOWER: Before the order was signed --

4 THE REFEREE: Continue.

5 MR. SASSOWER: You can't --

6 THE REFEREE: Sir --

7 MR. SASSOWER: May the record show you
8 cannot violate an order nunc pro tunc.

9 THE REFEREE: I've already ruled.

10 Q Mr. Schneider, before you are charged with
11 perjury, would you like to look at the transcript?

12 MR. STRAUS: Objection.

13 MR. SASSOWER: Before he is charged with
14 perjury, I'll make the record.

15 THE REFEREE: Sir, no threats in my court-
16 room.

17 MR. SASSOWER: No threats.

18 MR. STRAUS: That's a threat.

19 THE REFEREE: No, objection sustained.

20 MR. SASSOWER: Judge, I'm charging this man
21 with perjury.

22 THE REFEREE: Sir --

23 MR. SASSOWER: I'm charging this man with
24 perjury.

25 THE REFEREE: Go across the street and see

1
2 the district attorney.

3 MR. SASSOWER: Judge, I know what to do.

4 THE REFEREE: Don't belabor the point here.
5 Do you have any more cross-examination of this
6 witness, otherwise he'll be excused.

7 MR. SASSOWER: I have plenty of things.

8 THE REFEREE: So far you haven't cross-
9 examined him.

10 All you're doing is making speeches.

11 Q In what respect --

12 Were you in Judge Gammerman's courtroom Friday,
13 February 24, 1986 when his Honor stated --

14 Did you order a transcript of what Judge Gammerman
15 said about his order?

16 MR. STRAUS: Objection.

17 THE REFEREE: Sustained.

18 MR. SASSOWER: May I please make a record
19 here?

20 THE REFEREE: Sir, you asked the question.
21 There was an objection. I sustained it.

22 MR. SASSOWER: Fine, let me finish the
23 question.

24 THE REFEREE: You finished it.

25 MR. SASSOWER: I didn't finish the question.

1 I know when I finish a question.

2 THE REFEREE: No, sir.

3 MR. SASSOWER: Let me start over again.

4 THE REFEREE: You are not going to start
5 over again.

6 You will ask another question.

7 MR. SASSOWER: I want to make a record.

8 THE REFEREE: No.

9 MR. SASSOWER: Your Honor --

10 MR. STRAUS: Mr. Sassower, in all serious-
11 ness, if you ask a question and I make an ob-
12 jection, there is a record.

13 MR. SASSOWER: You will wait until I finish
14 the question before you make your objection.

15 If you don't wait, his Honor has the duty
16 and obligation to allow me to finish the question.

17 THE REFEREE: Counselor, I know what my
18 duties are.

19 MR. SASSOWER: I know.

20 THE REFEREE: You apparently do not know.

21 MR. SASSOWER: Pardon?

22 THE REFEREE: You said you know and you
23 apparently do not know what my duties are.

24 Q Mr. Schneider, under Petitioner's Exhibit 8 --
25

THE REFEREE: In evidence.

Q -- how does one move to vacate or modify that order?

MR. STRAUS: Objection.

THE REFEREE: Sustained.

Q Has any motion been made to modify or vacate that order which has been decided on the merits?

THE REFEREE: By whom?

MR. SASSOWER: By anybody.

MR. STRAUS: Objection.

THE REFEREE: Sustained.

MR. SASSOWER: By Judge Gammerman, all right.

MR. STRAUS: Has Judge Gammerman made a motion?

THE REFEREE: Did he move to vacate his own order?

MR. SASSOWER: Why not?

THE REFEREE: Did he?

MR. SASSOWER: I'm asking if a motion was made.

Q Was any motion made before Judge Gammerman?

THE REFEREE: Before him, not by him. Is that what you want to know, sir?

MR. SASSOWER: You have the wrong question,

1
2 your Honor. Do you want to ask the wrong
3 question, your Honor?

4 THE REFEREE: Do you know if anyone brought
5 any action to vacate Judge Gammerman's order?

6 THE WITNESS: Yes.

7 Q Was that decided on its merits? Yes or no.

8 A Every application --

9 Q Now.

10 THE REFEREE: How would he know?

11 MR. SASSOWER: He was a party to it.

12 MR. STRAUS: You are not letting him answer.

13 THE REFEREE: He never said that. He
14 was asked whether he knew of any motion.

15 MR. SASSOWER: On those motions. Wait a se-
16 cond.

17 MR. STRAUS: You asked --

18 Q On those motions made to modify or vacate
19 Judge Gammerman's order, were you a party to them?

20 THE REFEREE: Wait a minute. Don't say
21 motions, plural. My question was one, a motion.

22 Q Was a motion made to modify or vacate the
23 order?

24 A There was more than one motion made.

25 Q Were those motions decided on the merits?

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A They were all denied.

Q Were they decided on the merits?

THE REFEREE: How would he know? Talk to Judge Gammerman.

Q Have you got the decisions?

THE REFEREE: Next question.

Q Produce the decisions which --

MR. STRAUS: Your Honor --

MR. SASSOWER: They speak for themselves.

MR. STRAUS: If you wish to produce them, you are free to do so.

MR. SASSOWER: I've subpoenaed the files here, your Honor. I don't know what he's talking about. Okay.

THE REFEREE: Sir, you asked the question.

Q What did the decisions of Judge Cammerman say?

MR. STRAUS: Which decisions?

THE REFEREE: With respect to motions to vacate.

MR. SASSOWER: Or modify.

A I only recall that they denied your motions.

Q On what grounds?

THE REFEREE: Talk to the judge.

Q Let me put it this way, were you a party to

1
2 those two proceedings?

3 A Yes.

4 THE REFEREE: Did you appear?

5 THE WITNESS: In opposition to the motion
6 to vacate, yes, I did.

7 THE REFEREE: Judge -- did Judge Gammernan
8 make a decision from the bench?

9 MR. SASSOWER: Your Honor, let me ask
10 the question. Let me cross-examine, please.

11 THE REFEREE: No.

12 MR. SASSOWER: Please let me cross-examine.

13 THE REFEREE: Will you please sit down, sir?
14 Show some respect for the Court.

15 I have a right to inquire. Be seated, sir.

16 Did he render his decision from the bench?

17 THE WITNESS: No. In writing.

18 THE REFEREE: Next question, sir.

19 Q Will you produce those writings the next time
20 you come?

21 MR. STRAUS: I would suggest, if Mr. Sassow-
22 er wants you to direct the witness to produce
23 them --

24 THE REFEREE: Do you have those decisions?

25 THE WITNESS: I may have them in my files.

Mr. Sassower has them too. They affect him.
He was a party to the proceeding.

THE REFEREE: Mr. Sassower, the witness
says --

MR. SASSOWER: He doesn't know what I have.

THE REFEREE: You are an officer of the
court.

Do you have copies of those decisions?

MR. SASSOWER: Not available.

THE REFEREE: He said his copies are not
available too.

MR. SASSOWER: They were subpoenaed.

MR. STRAUS: They are not subpoenaed.

THE REFEREE: Subpoenaed by whom?

MR. SASSOWER: I subpoenaed them.

THE REFEREE: We have already gone through
with the subpoenas.

MR. SASSOWER: If you'll deprive me of my
right to evidence, why do we have to have a trial?

You denied the County Clerk to bring the
original file here.

You tell Mr. Straus without even asking me --

MR. STRAUS: Are we going to go through this
again?

1 THE REFEREE: Mr. Sassower --

2
3 MR. SASSOWER: If this will be a kangaroo
4 court, let the record so show.

5 THE REFEREE: Sir, I was born in the United
6 States, not Australia. It has nothing to do
7 with kangaroos.

8 Q What was your opposition based upon in the mot-
9 ions? Were they based upon the fact, Mr. Schneider,
10 that I needed Judge Gammerman's permission in order to
11 make that motion?

12 MR. STRAUS: Objection.

13 Q Yes or no.

14 MR. STRAUS: The orders are valid at this
15 point.

16 THE REFEREE: Sustained.

17 MR. STRAUS: I'm objecting.

18 THE REFEREE: Sustained.

19 Q Has Judge Gammerman ever been accused of being in
20 corrupt consort with your firm and the Kreindler firm?

21 Yes or no.

22 MR. STRAUS: Objection.

23 THE REFEREE: Sustained.

24 MR. SASSOWER: On what grounds, your Honor?

25 MR. STRAUS: Objection.

1 THE REFEREE: Sustained.

2 MR. SASSOWER: May I have --

3 THE REFEREE: I don't have to tell you every
4 time I rule, on what grounds --

5 MR. SASSOWER: Because I may be able to
6 obviate the objection.

7 THE REFEREE: Sustained.

8 MR. SASSOWER: Maybe I can obviate the ob-
9 jection.

10 THE REFEREE: It's the improper forum, I
11 told you.

12 MR. SASSOWER: Then it's -- Dennis against
13 Sparks says it's a proper forum.

14 THE REFEREE: Judge Potoker says it's not.

15 MR. SASSOWER: Fine. At least we have a record.

16 THE REFEREE: We have a record since we start-
17 ed.

18 MR. SASSOWER: Your Honor doesn't allow me
19 to prove a case.

20 You don't allow me subpoenas and the
21 Appellate Division and the clerk says I can
22 send them out myself and the CPLR says that
23 and Judge Potoker comes up the last minute and
24 says "My approval is needed."
25

1
2 Mr. Straus also. Last minute things.

3 THE REFEREE: So we have a record.

4 MR. SASSOWER: We don't have a record.
5 We want a record on the merits.

6 THE REFEREE: You just recited it.

7 MR. SASSOWER: Your Honor is not on trial
8 but your Honor wants to put himself on trial.

9 THE REFEREE: Mr. Sassower, I'm too old to
10 be moved by any threats.

11 MR. SASSOWER: I'm saying the facts as I
12 see it, honestly and validly.

13 THE REFEREE: You don't want to see anything
14 at this point.

15 MR. SASSOWER: I'm saying this man is com-
16 mitting perjury, and I say this to your Honor.
17 I don't have to go across the street for that.

18 THE REFEREE: Sir, you have already made
19 your position known. It's clear. It's on the
20 record, but I'm not going to have it on the re-
21 cord every twenty seconds.

22 MR. SASSOWER: Okay.

23 THE REFEREE: So that we cannot continue
24 this hearing in an orderly manner.

25 MR. SASSOWER: Okay, all right.

1 THE WITNESS: Your Honor --

2 MR. SASSOWER: Could Mr. Schneider step out
3 for two minutes and I want to say something on
4 the record?
5

6 MR. STRAUS: It's pointless.

7 THE REFEREE: We're not going to start this
8 over again.

9 Do you have anything? If you have anything
10 against Mr. Schneider, you know what you have to
11 do. Not here.

12 MR. SASSOWER: I'll do it, your Honor.
13 I thought possibly I'd like to be --

14 I thought your Honor would like to be a
15 little gracious to him because I have a trans-
16 script tomorrow and I know what Judge Gammerman
17 said.

18 THE REFEREE: Take it up with Judge Gammerman.

19 MR. SASSOWER: I'm going to take it up
20 with the criminal courts and I thought possibly
21 your Honor would -- okay -- let me read from
22 the record.

23 THE REFEREE: I'm not sitting here in a
24 criminal case.

25 MR. SASSOWER: May I read this one sentence

1 from the transcript.

2 THE REFEREE: No, you can't read anything
3 that's not in evidence. You've been practicing
4 law for a long time.

5 MR. SASSOWER: I'm sorry. Wasn't this put
6 in evidence?

7 THE WITNESS: Your Honor --

8 MR. SASSOWER: Was that marked for iden-
9 tification or evidence?

10 MR. STRAUS: It's for identification.

11 MR. SASSOWER: I desire to mark that
12 transcript in evidence.

13 MR. STRAUS: I would object to its being
14 received in evidence.

15 THE REFEREE: Objection sustained.

16 MR. SASSOWER: On what basis, your Honor?
17 Let the record be clear. I'm charged with
18 violating --

19 THE REFEREE: An order.

20 MR. SASSOWER: No, I'm not. I'm charged
21 with violating Judge Hughes' order.

22 MR. STRAUS: And eight others.

23 MR. SASSOWER: Wait a second.

24 THE REFEREE: Will you please stop yelling?
25

1
2 You know, one thing you are going to accomplish
3 you are all going to go stone deaf here before
4 this is over.

5 MR. SASSOWER: Don't interrupt me, Mr.
6 Straus, will you please?

7 I'm charged with violating Judge Hughes'
8 order as extended by Judge Gammerman on Decem-
9 ber 19, in the period of December 9, to
10 January 3rd. Okay.

11 Do you follow me, your Honor?

12 THE REFEREE: I'm letting you talk.

13 MR. SASSOWER: Are you listening to me?

14 THE REFEREE: I'm listening to you and I
15 have my notes right in front of me to verify
16 what you are saying.

17 MR. SASSOWER: I'm charged with committing
18 at least three violations of Judge Hughes' order
19 between December 19 and January 9. This is all
20 before January 23rd, and I am saying to your
21 Honor that between the period of December 19 and
22 January 9 Justice Hughes' order was not extended
23 as represented falsely and perjurally by
24 Mr. Schneider, perjurally, and I have the
25 transcript here to show that's perjurious and

1 and if I did not violate the order between
2 December 19 and January 9, nothing that any-
3 body can do on January 23rd could make it
4 violative or change the order nunc pro tunc,
5 because on January 19, Judge Gammerman drastical-
6 ly modified the order of Judge Hughes and not
7 only that, on Friday, February 24, 1986 --

8 MR. STRAUS: Objection.

9 MR. SASSOWER: Wait a second.

10 MR. STAUUS: February 1986. Orally, Judge.

11 MR. SASSOWER: Orally, Judge Gammerman
12 said on the record what he did or intended to
13 do in his order of January 23rd, 1985, and what
14 his Honor said just last week as to what he in-
15 tended to do, conformed to Respondent's F in
16 evidence and not what Petitioner's 8. That's on
17 the record.

18 MR. STRAUS: Is this a --

19 MR. SASSOWER: I'm saying this, your Honor,
20 if I am charged with violating Judge Hughes'
21 order between December 19 and January 9, I am
22 entitled to show that Judge Hughes' order was
23 not extended as perjuriously testified by Mr.
24 Schneider.

25 MR. STRAUS: There are orders in effect

1
2 as early as 1980. If Mr. Sassower is conduct-
3 ing this, not as a hearing, not as cross-exami-
4 nation, but as a filibuster, in spite of any
5 ruling you make, he just repeats, and goes back
6 and does the same thing over and over again.

7 I have no doubt he can keep Mr. Schneider
8 here for a month, as he promised, but he's
9 not doing it by cross-examination.

10 THE REFEREE: Next question.

11 MR. SASSOWER: May I read a sentence into
12 the record?

13 THE REFEREE: You want to what?

14 MR. SASSOWER: I want to ask a question.
15 Now, it's in evidence.

16 MR. STRAUS: What's in evidence?

17 MR. SASSOWER: Did you admit it in evidence?

18 THE REFEREE: It was not received in evidence.

19 MR. STRAUS: What did you offer into evi-
20 dence and did you receive it yourself and did
21 you rule on it?

22 MR. SASSOWER: I'm sorry. I got it from
23 Mr. Schneider.

24 Q Mr. --

25 THE REFEREE: Mr. Sassower, it's not in

evidence.

Q Mr. Schneider, did you send me a copy of this transcript when you wanted the order signed?

THE REFEREE: What exhibit is that?

MR. SASSOWER: It's "F."

Q Did you send me a copy?

THE REFEREE: Did you send him a copy?

THE WITNESS: I don't recall.

THE REFEREE: He doesn't recall.

MR. SASSOWER: Subject to that testimony, may it be marked in evidence?

I'll testify to that fact.

MR. STRAUS: When you testify, you can offer it in evidence.

MR. SASSOWER: I want to ask him a question from it.

MR. STRAUS: I would object to it being received in evidence.

THE REFEREE: Objection sustained.

Q Do you recall this mark --

THE REFEREE: Not "Do you recall what." When?

MR. SASSOWER: On December 19.

THE REFEREE: Where?

MR. SASSOWER: Special Term, Part 1.

THE REFEREE: Before whom?

MR. SASSOWER: Mr. Justice Gammernan.

THE REFEREE: Who is alleged to have said what?

MR. SASSOWER: I'll read the remark before so I'll answer your Honor's question.

"Mr. Schneider, your Honor" --

MR. STRAUS: Objection. Is this a question or is Mr. Sassower reading?

MR. SASSOWER: I'm reading.

MR. STRAUS: You can't read that. You're reading something not in evidence.

MR. SASSOWER: I have to put it in evidence later since he doesn't deny --

THE REFEREE: Sir, question.

Q Question, do you remember this being said by you and the Court saying, responding, question, Mr. Schneider, "Your Honor, there have been twelve lawsuits against our firm. The Court: I am going to stay all the actions against the lawfirms. That's my" --

MR. STRAUS: Same thing. Objection. It's the same document. It's the same document that you have offered in evidence before.

1
2 MR. SASSOWER: Fine, the document is
3 not in evidence, but I can ask the witness if
4 a certain thing was said and a certain thing --

5 THE REFEREE: Do you recall having said
6 that to the court at that time?

7 THE WITNESS: Could you repeat that, Mr.
8 Sassower?

9 MR. STRAUS: If your Honor pleases, if he
10 did, it would be irrelevant because it has to
11 do with the December 19 proceeding.

12 THE REFEREE: Go ahead.

13 MR. SASSOWER: Do you want to follow it
14 while I read it?

15 THE REFEREE: Pardon?

16 MR. SASSOWER: Let him follow it while I
17 read it.

18 THE REFEREE: No, no, no. What is he
19 alleged to hve told the court?

20 MR. SASSOWER: I can say what the court
21 said, the court only.

22 MR. STRAUS: Objection.

23 MR. SASSOWER: Will you listen?

24 MR. STRAUS: If he wants to ask the witness
25 if he said something at a prior occasion -- just

1 a minute, Mr. Sassower.

2 THE REFEREE: Objection sustained. Go ahead.

3 Q Did not the court on December 19, 1984, only
4 extend the injunction as against the law firms and
5 specifically state that as far as the individuals are
6 concerned, if they want to do anything, they can make
7 a motion to dismiss?
8

9 MR. STRAUS: Objection.

10 Q Yes, or no?

11 MR. STRAUS: Objection.

12 A I don't recall that. I don't recall precisely
13 that statement and, in fact, the order signed by Judge
14 Gammerman is directly at odds with what Mr. Sassower
15 claims Judge Gammerman said on --

16 Q We're talking about violations before January 23rd,
17 1985, and therefore, what Judge Gammerman said --

18 THE REFEREE: No.

19 MR. SASSOWER: I'm asking the question.

20 THE REFEREE: That's not asking the question.

21 (Recess ensues)

22 MR. STRAUS: If your Honor please,
23 before the cross-examination resumes, I have
24 an application at this point.

25 It is evident, it seems evident to me,

1
2 rather than pursuing any line of cross-examination
3 ion which might be relevant to the direct examination,
4 Mr. Sassower choses to pursue areas
5 which you have already ruled have been irrelevant
6 and improper.

7 At this point, I formally move that the
8 cross-examination be declared at an end, Mr.
9 Sassower having been given an adequate opportunity
10 to cross-examine the witness and choosing
11 instead to deal in personal attacks and irrelevant
12 subjects, and in violation of continued
13 rulings by you as to the areas that he could
14 properly explore.

15 THE REFEREE: Denied at this time. Go ahead.

16 MR. SASSOWER: Your Honor, would you care
17 to put on a statement as to the incident in
18 the hallway?

19 THE REFEREE: I don't have to put anything
20 on the record.

21 Do you have anything to say?

22 MR. SASSOWER: Yes, I do.

23 THE REFEREE: Go ahead and say it.

24 MR. SASSOWER: Apropos of the remarks made
25 by his Honor with respect to a ride down in an

elevator on January 30, 1986 --

THE REFEREE: Sir, you wanted to put something on the record.

MR. SASSOWER: Yes.

THE REFEREE: We already disposed of that.

MR. SASSOWER: Right, okay. For what I would estimate, from what I saw, it was at least ten minutes, until I made some comment as to my belief as to its manifest impropriety, his Honor was engaged in a conversation in the hallway with Mr. Schneider. The subject, I don't know what it was and I don't care.

In any event, I have stated consistently from his Honor's first entrance into this picture --

THE REFEREE: Mr. Sassower, make your point.

MR. SASSOWER: I ask your Honor to excuse himself.

THE REFEREE: Motion is denied and my conversation with Mr. Schneider in the corridor lasted not even sixty seconds. I was in the mens room. The whole recess didn't take ten minutes.

What I said --

1 MR. SASSOWER: I'm not interested.

2
3 THE REFEREE: I'm interested. I told him
4 that I was handling matrimonial matters and
5 that my courtroom was on the nineteenth floor
6 overlooking New York harbor on Livingston Street.

7 Anything else you want to know, sir?

8 MR. SASSOWER: I wasn't even interested
9 in that.

10 THE REFEREE: You were interested.

11 MR. SASSOWER: I was interested that your
12 Honor --

13 THE REFEREE: You were interested enough
14 to make a remark.

15 MR. SASSOWER: Your Honor brought it up
16 about the elevator.

17 THE REFEREE: Sir, that was in response
18 to a statement you made as to whether or not --

19 MR. SASSOWER: Your Honor, I would think
20 that if a litigant feels that a propsective
21 jurist --

22 THE REFEREE: Sir, I've given you every break
23 that I possibly could so far and you are taking
24 advantage of it.
25

1
2 MR. SASSOWER: I think the record speaks
3 for itself.

4 THE REFEREE: It sure does.

5 MR. SASSOWER: And how.

6 THE REFEREE: Do you have any more ques-
7 tions of this witness?

8 MR. SASSOWER: Plenty.

9 THE REFEREE: Don't tell me you have plenty.
10 I want to hear one.

11 Q I show you this document and ask you if you
12 recognize it?

13 THE REFEREE: What does this document pur-
14 port to be and what is it relevant to?

15 MR. SASSOWER: A summons and complaint.

16 MR. STRAUS: Do you want to mark it for
17 identification?

18 THE REFEREE: That will be Respondent's
19 Exhibit P for identification.

20 (Received, so marked)

21 A Yes, I have seen it.

22 Q Do you recognize it?

23 A Yes.

24 Q Can you tell the Court what it is?

25 A It purports to be a summons and complaint.

1
2 Q And did you see that summons and complaint
3 shortly after February 1, 1982? That's shortly after --
4 February 1, 1982 is when Lee Feltman became receiver,
5 is that correct?

6 A You're asking me if I saw this shortly after
7 February 1?

8 Q Right.

9 A Yes, I did.

10 Q You testified last week that upon Mr. Feltman's
11 being appointed receiver, he appointed your firm or his
12 firm as counsel to the receiver, is that correct?

13 A That's correct.

14 MR. SASSOWER: Would you mark this, please?
15 May we mark this in evidence?

16 MR. STRAUS: Are you offering it?

17 MR. SASSOWER: Yes.

18 MR. STRAUS: I don't know the purpose of
19 the offer.

20 It's not evident from the document itself
21 as to what the relevance is.

22 I've objected because you haven't indicated
23 its relevance to this proceeding.

24 MR. SASSOWER: I don't think I have to show
25 its relevancy right now. Subject to connection.

1
2 THE REFEREE: No, no such thing as subject
3 to connection.

4 If it's in evidence, it's in evidence.

5 MR. SASSOWER: He objects --

6 THE REFEREE: You will wait until it is
7 connected and offer it at that time.

8 MR. SASSOWER: I offer it in evidence at
9 this time.

10 THE REFEREE: There's been an objection made.
11 This refers to a last will and testament of
12 one --

13 MR. SASSOWER: It's a --

14 THE REFEREE: It has nothing to do with
15 what we're discussing here.

16 MR. SASSOWER: Subject to connection.

17 THE REFEREE: The objection is sustained at
18 this time.

19 (Received marked Respondent Q for identifi-
20 cation)

21 Q You testified last week that when Mr. Feltman
22 was appointed receiver, your firm or his firm was appoint-
23 ed counsel to the receiver, is that correct?

24 A Yes.

25 Q I show you this document and ask you if that's

correct, if that is a document that you recognize?

THE REFEREE: A new document, sir?

MR. SASSOWER: Yes, your Honor.

THE REFEREE: That's Respondent's Q for identification.

A Yes, I recognize the document.

MR. SASSOWER: I offer it in evidence.

MR. STRAUS: May I see it, please?

(Shown to Counsel)

MR. STRAUS: I have no objection.

MR. SASSOWER: I offer it in evidence.

THE REFEREE: It will be received in evidence.

(Respondent Q for identification received and marked Q for evidence)

MR. SASSOWER: Your Honor, may I go back for a moment?

Was this affidavit marked for identification?

MR. STRAUS: I don't believe so.

MR. SASSOWER: Can I offer this for identification? It was about fifteen minutes back.

THE REFEREE: It has been marked.

MR. SASSOWER: I thought it was marked for identification.

MR. STRAUS: It doesn't have any marking on it.

THE REFEREE: That will be Respondent's Exhibit R for identification.

(Received, so marked)

Q By the way, I show you a document and ask you if you notarized that document?

MR. SASSOWER: Is it marked for identification?

MR. STRAUS: Is it marked for identification?

MR. SASSOWER: No, we'll do it at once.

THE REFEREE: That will be Respondent's S for identification.

(Received and so marked)

THE WITNESS: Is there a question, Mr. Sassower?

Q Did you notarize that document?

A I notarized the original of the document.

Q And it was filed in the County Clerks office?

A I believe that it was.

Q Now, I show you a photostatic copy of 22 NYCRR 660.24, and ask you if your are familiar with it?

THE REFEREE: Is that another document, or is that "S"?

1

2

MR. STRAUS: Is he familiar with the rule
or the document?

3

4

MR. SASSOWER: With the rule.

5

6

A You have cited the rule innumerable -- in innum-
erable affidavits, Mr. Sassower.

7

Q Innumerable, that's a good word.

8

9

10

When is the first time that you or any member
of your firm, as far as you know, become aware of that
rule?

11

12

A When you either made a motion or brought an
Article 78 proceeding to deny my firm compensation.

13

Q You never saw it before?

14

A I don't recall whether I did or didn't.

15

When your predecessor was appointed --

16

17

MR. SASSOWER: Do you want to look at it,
your Honor? The terminology becomes --

18

THE REFEREE: All right.

19

20

Q The order was the order of Judge Thomas V.
Sinclair, Jr., wasn't it?

21

A Which order?

22

23

Q The order appointing John V. Lindsay, Honorable
John V. Lindsay and the order appointing Lee Feltman.

24

A Those are two separate orders.

25

Q I know, but those both orders were signed by

Judge Sinclair.

A That's correct.

Q In the first order, the former Mayor was appointed receiver.

A To the best of my knowledge, that's correct.

Q And, in the second order, Mr. Feltman was appointed receiver, is that correct?

A As a substitute receiver when Mr. Lindsay declined to qualify.

Q Did Judge Sinclair designate Mr. Lindsay and Mr. Feltman or was it some other judge?

A I have no personal knowledge of what Judge Sinclair did with respect to Mr. Lindsay. That was two years before we were involved in the case.

Q Did you ever look at the order?

A I've looked at the order, yes.

Q Did you not see in the margin written in, that Mr. Lindsay's name was designated by Judge Dotzin?

A I don't recall that.

Q Do you recall in the order --

MR. SASSOWER: May I have the order of February 1, 1982?

MR. STRAUS: Whose order is that?

MR. SASSOWER: Judge Sinclair.

1 THE WITNESS: I can save you the time.

2 The order appointing Mr. Feltman did have a
3 designation. It had the name of Judge Dontzin
4 stamped on it.
5

6 Q That was all pursuant to 660.24 whereby the
7 judge who signs the order was not designating the re-
8 ceiver, the attorney, the attorney, something like that.

9 A I don't know why that was done. I have no
10 personal knowledge of the procedures among the judges
11 in making the appointments.

12 Q When your firm was appointed as a receiver --

13 A My firm was never appointed as a receiver.

14 Q I'm sorry. Mr. Feltman appointed as a receiver
15 and your firm was attorney for the receiver, didn't you
16 become acquainted with the rules and regulations of
17 the Appellate Division, First Department, in the appointment
18 of a receiver?

19 A I'm familiar with all relevant rules to the
20 best of my knowledge.

21 Q And 660.24, we'll leave out the 22 NYCRR with
22 your Honor's permission, 660.24 is the important rule
23 probably in the First Department, is it not.

24 A I don't know how to respond to that.

25 Q Now, when Mr. Feltman appointed your firm,

yes or no, did he comply with 660.24?

MR. STRAUS: Objection.

THE REFEREE: Sustained.

MR. SASSOWER: May I have the basis, your Honor?

THE REFEREE: Sustained.

MR. SASSOWER: May I have the basis? Maybe I can obviate it.

THE REFEREE: He's not Mr. Feltman.

MR. SASSOWER: Okay, I can obviate it.

THE REFEREE: That's only Number 1. Number 2, it's not relevant to this proceeding.

MR. SASSOWER: I'll show the relevancy.

THE REFEREE: That's a different action.

MR. SASSOWER: That's not a different action.

THE REFEREE: Yes, that's a different action, if you believe that somebody violated their appointment.

Q You read this?

MR. STRAUS: He's answered he was familiar with the rule.

MR. SASSOWER: Now you'll have to bear with me, your Honor.

THE REFEREE: I haven't said a word.

MR. SASSOWER: If I had the book, I could go much faster but I don't have the book.

Q I show you this document and --

MR. SASSOWER: By the way --

MR. STRAUS: Do you want it marked for identification?

MR. SASSOWER: Yes, on all documents, the number on top --

THE REFEREE: That will be T for identification, Respondent's T.

(Received, so marked)

MR. SASSOWER: Before I ask the question, may the record show that wherever possible, I took it from a record on appeal prepared by the firm of Feltman, Karesh and Major, so that the numbers on top should be disregarded or can be considered as the Feltman firm's caption.

MR. STRAUS: At the time you offer something in evidence, I'm sure you will indicate --

MR. SASSOWER: I don't want to do it every time.

MR. STRAUS: So far nothing is offered in evidence. I don't know that that's appropriate.

1
2 MR. SASSOWER: All this is being offered
3 into evidence.

4 MR. STRAUS: You haven't offered this docu-
5 ment in evidence.

6 MR. SASSOWER: I'm talking about all docu-
7 ments herein this respect.

8 Q Do you recognize this document, Mr. Schneider?

9 A Yes, I do.

10 Q Could you describe it to us?

11 A It purports to be a summons and complaint.

12 Q What kind of summons and complaint? How do
13 you distinguish it from other summons and complaint?

14 A It purports to be a third-party complaint.

15 Q Is one of the third-party defendants Puccini
16 Clothes, Limited?

17 MR. STRAUS: Now he's asking the witness
18 to testify to the contents of a document not in
19 evidence.

20 MR. SASSOWER: I'll offer it in evidence.

21 MR. STRAUS: May I see it, please?
22 I don't know the purpose of the offer, but I
23 have no objection to it.

24 THE REFEREE: It will be received in evi-
25 dence as Respondent's T.

(Received and so marked)

Q Mr. Schneider, at the time you entered the picture in 1982, we're going to call this action with the third-party defendant, with your Honor's permission, Barr 2, is that all right with you, Mr. Schneider, because in many papers it will be referred to as Barr 2 so that if we refer to this as Barr 2, your Honor will know what we're referring to.

In Barr 2, which is the third-party action, when you entered the picture on February 2, 1982 or shortly thereafter, with respect to this action, was Puccini Clothes, Limited, in default?

A Yes, they were in default in serving an answer to the third-party complaint.

Q And they had moved previously to relieve themselves of that default before you came into the picture, is that correct?

A I don't recall one way or the other.

Q Would you like your memory refreshed?

I show you this document and I hope it's the right document --

THE REFEREE: Look at it. You may have the wrong document.

MR SASSOWER: I'm trying to go in chronologi-

cal order.

Q This is an affidavit signed by Lee Feltman.

MR. STRAUS: Do you want that marked for identification?

MR. SASSOWER: Please.

THE REFEREE: That will be Respondent's Exhibit U for identification.

(received, so marked)

Q Did you prepare this document or help prepare it or are you familiar with its contents, and, just look at it briefly.

You can look at it throughout your examination on this subject.

A It was prepared in my office. I don't recall if I directly --

Q You are familiar with the subject matter.

A Do you want me to read this to answer it?

This was in a case where you were disqualified and you had no standing to do anything about this.

Q Excuse me, is this an affidavit by Lee Feltman?

A Yes, it is.

Q And was it in support of a motion to vacate your default?

MR. STRAUS: At this point, your Honor, I

1
2 would ask for the relevance of this line of
3 questioning.

4 I don't know -- in any respect -- Mr. Sassow-
5 er has indicated that it would relate to the
6 allegations that he violated a court order.

7 For us to go through all of the proceedings
8 that may have been brought at various times --

9 I would ask that we be limited to relevant
10 proceedings.

11 MR. SASSOWER: Your Honor, I'll show and
12 I think every judge in Spreme Court, New York
13 County, and I'm just speaking on a broad level,
14 by order has accepted my interpretation of Justice
15 Sinclair's order.

16 MR. STRAUS: If that's the offer, I'll
17 object.

18 MR. SASSOWER: Wait a second. Let me finish.

19 THE REFEREE: What he says is not evidence.

20 MR. SASOOWER: Your Honor, unfortunately,
21 Mr. Schneider and possibly yourself have been
22 brainwashed to accept the proposition that where
23 there is smoke there is fire, and I say, your
24 Honor, with all due respect, Judge Sinclair's
25 order has never been violated and there is going

1
2 to be testimony and evidence and authority
3 and documents shown to your Honor, but at this
4 point I want to show in a brief period of time
5 from my adversaries testimony that Judge Sin-
6 clair's order was never violated, and I'll tell
7 you something else that's he who has been violat-
8 in orders, not me, but if you scream loud enough
9 you become brain washed.

10 Give me an opportunity, your Honor.

11 I'm here to try to prove a case.

12 MR. STRAUS: If that was, in fact, what
13 Mr. Sassower was attempting to prove, the
14 documents that he's offered have absolutely no
15 relevance to it.

16 Furthermore, if eighteen different judges
17 in his opinion, feel that an order is not in-
18 valid, it has no consequences for this hearing
19 because the order is in effect and we don't
20 take a poll of people on the street either, but,
21 these documents which he has offered on this
22 line of questioning have absolutely no relevance
23 to the charges against Mr. Sassower, nor do
24 they relate to the direct examination.

25 MR. SASSOWER: All I'm saying, your Honor,

1
2 before you count me out, let me go to the
3 batter's box, let me present it in a very simple
4 way, and, I think your Honor, I think your Honor
5 will agree with me that --

6 THE REFEREE: That what?

7 MR. SASSOWER: -- that I haven't violated,
8 for example, Judge Sinclair's order.

9 THE REFEREE: I haven't said you violated
10 any order.

11 MR. SASSOWER: Let me try to show it my
12 way.

13 MR. STRAUS: This is not relevant.

14 THE REFEREE: It's not a question of showing
15 it your way.

16 It's a question of showing it the legal way.

17 MR. SASSOWER: Let me ask you the rhetorical
18 question, and, by the way, I had this case because
19 you mentioned matrimonial outside, it popped
20 into my head.

21 If there is an order of the court that
22 says that a husband must pay, let's say, fifty
23 dollars a week for the support of his wife or
24 for the support of the children, and he pays \$60
25 instead of the order because he hasn't complied

he's paying more than the order provides --

THE REFEREE: Let's go on.

Q Mr. Schneider, was Puccini Clothes, Limited,
in default at that time?

MR. STRAUS: Objection.

THE REFEREE: Sustained.

MR. SASSOWER: Subject to connection.

THE REFEREE: Sustained.

Q Mr. Schneider, I show you this document.

MR. STRAUS: Do you want to mark it for
identification?

THE REFEREE: Another document?

MR. SASSOWER: Yes.

THE REFEREE: That will be "V."

MR. SASSOWER: Boy, you don't even give a
man a chance to prove it, your Honor. If you
know it, you can write the script, but let me
prove my case.

Maybe I can convince the Appellate Division.
Maybe they're not as smart as your Honor and
maybe they'll fall for my story, but give me a
chance to prove it on the record.

THE REFEREE: It's "V" for identification.

MR. SASSOWER: It's quite obvious to me what's happening.

THE REFEREE: It's "V" for identification. Next question.

(Received and marked)

Q Mr. Schneider, would you read -- you are the notary and although you were only the notary in that case, were you familiar with the material signed by Mr. Feltman?

A Yes, I was.

Q So that you can testify that the contents of what you notarized was, in fact, your own knowledge as well, is that what you are saying?

A I don't understand that question.

Q On that document, you are only the notary, right?

A I was a notary. I notarized Mr. Feltman's signature on the verification page.

Q But I'm asking you because --

THE REFEREE: Were you also familiar with the facts recited by Mr. Feltman?

MR. SASSOWER: Thank you, your Honor.

THE WITNESS: I may have been. This was four years ago.

Q You were taking care of the Puccini matter,

1
2 weren't you?

3 A I was one of many attorneys in this case in
4 my firm.

5 Q What was --

6 A Mr. Sasssower, will you let me finish the answer?

7 MR. SASSOWER: I'll grab Mr. Feltman here.

8 MR. STRAUS: He's not here at the moment.

9 Mr. Schneider is the witness.

10 MR. SASSOWER: I'll go on to the next ques-
11 tion.

12 MR. STRAUS: After he's finished his answer.

13 A I was one of many attorneys in my firm who
14 was required to work on this case by virtue of your
15 frivolous and vexatious lawsuits.

16 MR. SASSOWER: Then I want his records here,
17 your Honor.

18 THE REFEREE: What records?

19 MR. SASSOWER: His time records because
20 we're going to show your Honor -- may the
21 record show that we're going to show that all
22 these motions and all these proceedings were as
23 a direct result of the corrupt practices of
24 Mr. Schneider and his firm and I wish your Honor
25 and I hope your Honor will give me the opportunity

1
2 to show it, that all these motions and all
3 this material, as Mr. Straus should know, was
4 the result of their corruption.

5 MR. STRAUS: At this point, I'm going to
6 object again and let me point out, if I may,
7 Mr. Sassower --

8 THE REFEREE: This is not the proper forum
9 for it.

10 MR. SASSOWER: They are charging us with
11 making frivolous motions and we had to make the
12 motions because of their duplicity.

13 MR. STRAUS: There are three, and at the
14 request of Mr. Sassower, there are now four
15 criminal contempt convictions against Mr.
16 Sassower now in evidence.

17 All of those decisions indicate the course
18 of conduct which Mr. Sassower engaged in, in
19 violation of various orders and those decisions
20 and findings of the court are final and have
21 withstood appeal.

22 The matters contained in those decisions
23 cannot be attacked by Mr. Sassower showing
24 that irrelevant, immaterial actions were brought
25 either by him, or by Mr. Schneider's firm or by

any other firm.

If Mr. Sassower would attempt to restrict his cross-examination to the allegations and to the direct examination, I would have no objection to any question that he asks, thus far.

It is now twenty minutes after four in the afternoon.

He hasn't pursued one half of real cross-examination, and, this is the second day that Mr. Schneider has been on the stand. To show that other actions were brought has absolutely no relevance to the charge against him, and he continues to do it in disregard of your rulings and your directions, and again, I renew my motion to terminate this cross-examination because Mr. Sassower chooses deliberately not to pursue any meaningful cross-examination but to simply harass and harangue.

MR. SASSOWER: Let me answer.

MR. STRAUS: I want a ruling.

MR. SASSOWER: Can I speak first? First of all, Judge Potoker, following what Mr. Straus had said without giving me an opportunity to speak, ruled that those convictions are conclusive

1
2 so I can't cross-examine him as to that ac-
3 cording to your Honor.

4 But I am cross-examining -- what I am
5 cross-examining on now are not those convictions.
6 I'm cross-examining him about the charges made
7 by you and him as recent as a few seconds ago
8 by Mr. Schneider that these were frivolous
9 and vexatious litigation and I'm showing and
10 intend to show that they were not frivolous, they
11 were not vexatious, they went right to the point
12 to show this man's larceny and his firm's larceny
13 and I want your Honor to give me the opportunity
14 and that will show this was not vexatious in that
15 we were getting to the heart of these guys. We
16 got the evidence and if you will give us an op-
17 portunity, all we want, your Honor, is the oppor-
18 tunity to show it to you.

19 If your Honor then says to the Appellate
20 Division, "I gave the man the opportunity, he
21 showed me what he has, but I think it's irrelevant"
22 that's your Honors prerogative.

23 But don't shut me off beforehand. I'm not
24 pursuing Charge 1, 2 and 3 and Judge Evan's chrg.
25 You said I'm bound by it, fine, I'll leave it go.

1
2 But I'm pursuing the other charges where
3 you charge me with vexatious litigation.

4 MR. STRAUS: That's exactly the point,
5 Judge Potoker, you can't show that these were
6 not vexatious by showing that in addition dozens
7 or hundreds or thousands of other actions
8 were also brought.

9 That would not be in my opinion an offer
10 to the Court and an appropriate way of dealing
11 with the charge of vexatious and frivolous liti-
12 gation.

13 MR. SASSOWER: I'll show you, your Honor,
14 and this is on the record, I'll show that if
15 this man and his firm were not thieves on this
16 particular proceeding, on this particular motion,
17 there would have been no actions and there would
18 have been no motions.

19 MR. STRAUS: That's another accusation.
20 You keep calling the witness names. You have
21 a single court decide that Mr. Schneider was
22 guilty of dishonesty, show me and show Judge
23 Potoker one decision.

24 MR. SASSOWER: I'll show it to you.

25 THE REFEREE: Mr. Sassower, again, that is

a matter for another court.

MR. SASSOWER: I understand that.

THE REFEREE: So let us cease and desist and go back to cross-examination, if you have any that is relevant to this proceeding and not to any other.

MR. SASSOWER: Yes, to this proceeding.

THE REFEREE: Continue. Continue with your cross-examination.

Q Was your answer, Mr. Schneider, with respect to Respondent's Exhibit V, as far as you recall, as of that date, was that sworn statement of Mr. Feltman correct or substantially correct?

MR. STRAUS: Objection.

MR. SASSOWER: Please give me an opportunity to show the relevance. I'll show its relevance.

THE REFEREE: Sir, he notarized it. All he attested to was the fact that Mr. Feltman signed it in his presence.

MR. SASSOWER: Right. But I'm saying even if that, even if you were not the notary, okay, what Mr. Feltman swore to, could have sworn to the same fact.

MR. STRAUS: Objection.

1 THE REFEREE: Overruled.

2 MR. SASSOWER: Thank you, your Honor.

3 A I would have to assume so.

4 Q Okay.

5 MR. SASSOWER: Mark the document.

6 A This is not a litigation document. This is a
7 proposed answer.

8 MR. STRAUS: Are you offering it in evidence?

9 MR. SASSOWER: Yes.

10 MR. STRAUS: Please show it to me and I
11 can decide whether I have any objection.

12 MR. SASSOWER: Absolutely.

13 I have every intention to. Leave the objections
14 to Mr. Straus.

15 I know why you'd like to keep that out.

16 THE REFEREE: Please.

17 MR. SASSOWER: I'm sorry.

18 THE REFEREE: No speeches. You keep --

19 MR. SASSOWER: Sorry.

20 THE REFEREE: You keep saying sorry, but,
21 you keep ignoring the rulings of the Court.

22 MR. STRAUS: With all due respect, your
23 Honor, this is totally irrelevant to this pro-
24 ceeding. I object on that ground.
25

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2 MR. SASSOWER: With all due respect, I
3 don't think that Judge Potoker or Mr. Straus
4 absolutely understand the significance of this
5 document.

6 MR. STRAUS: Perhaps you are the only
7 person who understands it.

8 MR. SASSOWER: No, I understood it. Let's--
9 I understood it much later, the significance.

10 I withdraw that.

11 THE REFEREE: Withdraw what?

12 MR. SASSOWER: That I understood the signifi-
13 cance much later.

14 THE REFEREE: Objection sustained.

15 MR. SASSOWER: On what basis, your Honor?

16 THE REFEREE: Next question.

17 MR. SASSOWER: May I know the basis so
18 I can obviate it, --

19 THE REFEREE: Sir --

20 MR. SASSOWER: Please, let me obviate it.
21 I'm a neophyte.

22 MR. STRAUS: The objection was made on
23 the grounds of relevance.

24 THE REFEEEEE: Denies each and every allegat-
25 ion, in the third-party complaint. I don't know

1
2 anything about a third-party complaint. That's
3 not before me.

4 The Court Reporter has indicated that his
5 fingers don't want to move any more, so, we'll
6 have to recess.

7 MR. SASSOWER: Who are you going to bring
8 next Thursday?

9 MR. STRAUS: As I said at the pre-hearing
10 conference, I said we'd call Messrs. Postel and
11 Raffé and I assume they will be here on Thursday.

12 We'll have Mr. Raffé on telephone notice.

13 MR. SASSOWER: Your Honor, unless --your
14 Honor is ruling, and there are too many objections
15 based on relevancy and, if we're going to --

16 THE REFEREE: It's no surprise to you --

17 MR. SASSOWER: Your Honor, if Mr. Schneider
18 cannot be here on Thursday --

19 THE REFEREE: He's already indicated that he
20 can't be here.

21 MR. SASSOWER: Since I have to get subpoenas
22 out and I have work to do and I think it's going
23 to --

24 You don't see the relevancy, so, let's
25 adjourn until next Tuesday and cut out Thursday.

MR. STRAUS: We have made arrangements for the witnesses to appear here tomorrow.

MR. SASSOWER: If you brought Mr. Gerstein there would be a continuing story but you don't bring Mr. Gerstein, you don't have a continuing story and I'll have to introduce all these documents again on the issue of relevancy and I need --

THE REFEREE: Sir, if you are going to introduce the same documents that I have already ruled upon as being irrelevant, don't do it.

MR. SASSOWER: I certainly am going to make every attempt and show where they are relevant, your Honor.

I want Thursday so I can start assorting some of my papers.

THE REFEREE: Be here Thursday for the continued hearing.

MR. SASSOWER: I can't be here Thursday.

THE REFEREE: Be here Thursday for the continued hearing.

MR. SASSOWER: I'm asking that it be adjourned to next Tuesday.

MR. STRAUS: That's just impossible.

MR. SASSOWER: This man's willful act which he'll be sued for --

MR. STRAUS: Mr. Sassower, why don't you say appropriate things for a change?

You can't ask a question and can't make a remark.

MR. SASSOWER: I need subpoenaed documents. I have to get documents together and I'm asking you that it be adjourned until next Tuesday.

MR. STRAUS: We have already made arrangements, for two witnesses.

MR. SASSOWER: I don't care.

(Off record ensues)

THE REFEREE: You have all day tomorrow to get all your documents together.

MR. SASSOWER: Judge, I need a month to get them together.

It will take me at least four days for Raffae and Postel.

THE REFEREE: This case was marked ready for hearing and --

MR. STRAUS: You said you were ready on the day of the pre-hearing conference.

MR. SASSOWER: That's right, and they went

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Proceeding

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ahead and --

MR. STRAUS: On that day I told you that
Raffe and Postel would testify.

THE REFEREE: Court is adjourned.

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WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>
Donald F. Schneider	215	216

EXHIBITSPETITIONERRESPONDENT

3 & 4 subpoenas	P. 201	C. letter 2-24	194
5.	201	D. id	243
		E. id. brief	248
		F. id	258
		G. id letter	283
		H. id	296
		I. id	299
		J. id letter	300
		K. id affidav.	301
		L. id. letter	317
		M. id	337
		N.	
		O. id	361
		P. id summons, complaint	395
		Q. id, evd.	397:398
		R. id.	399
		S. id	399
		T. id, evd.	404, 405
		U. id.	407
		V. id.	411.