

1 SUPREME COURT OF THE STATE OF NEW YORK

2 APPELLATE DIVISION: SECOND JUDICIAL DEPARTMENT

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

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

7 Petitioner, :

8 GEORGE SASSOWER, :

9 Respondent. :

10 - - - - -x

11 Brooklyn New York

12 February 27, 1986

13
14 B e f o r e :

15 HON. M. MICHAEL POTOKER, Referee

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

19 ROBERT H. STRAUS, ESQ.

20 Chief Counsel, Grievance Committee

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22
23
24 ARTHUR BLAUSTEIN
Certified Shorthand Reporter

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2 THE REFEREE: This is a continued hearing.

3 MR. SASSOWER: May I make two brief announce-
4 ments before we start?

5 THE REFEREE: Are you ready, Mr. Straus?

6 MR. STRAUS: Yes, we're ready.

7 MR. SASSOWER: Your Honor, the first an-
8 nouncement is, I didn't want to forget about it,
9 is that the Circuit Court of Appeals engagement
10 was called off for next Tuesday and put on for
11 the 18th instead, so that as far as next Tuesday
12 is concerned, subject to any other things that
13 may arise, 10 o'clock would be fine and we can
14 cancel the 12 o'clock commencement.

15 MR. STRAUS: I'd like to start at 10.

16 THE REFEREE: Mr. Schneider indicated that
17 he --

18 MR. STRAUS: Mr. Schneider, he called me
19 to give me the same information yesterday, so he
20 said he would be available at 10.

21 THE REFEREE: All right, ten o'clock.

22 MR. SASSOWER: The second thing is Miss
23 Brennan is in the courtroom and she definitely
24 will be called as a witness, and --

25 THE REFEREE: I don't know who Miss Brennan

1
2 is.

3 VOICE: Ave Maria Brennan.

4 THE REFEREE: You were subpoenaed here as
5 a witness today.

6 MS. BRENNAN: No, sir, I came here today
7 to serve Mr. Sassower with some papers.

8 I'm from the firm of Feltman, Karesh, Mager
9 and Farbman.

10 While I made the trip, I thought I would
11 wait an extra fifteen minutes and see what happens.

12 I intend to leave shortly and go back to
13 my office.

14 MR. SASSOWER: She'll be subpoenaed and
15 will testify.

16 MR. STRAUS: If I may, I understand that
17 she's subpoenaed.

18 Were you asked to produce any documents?

19 THE REFEREE: Mr. Sassower has indicated
20 that she has not as yet been subpoenaed.

21 MS. BRENNAN: Your Honor, shall I leave?

22 THE REFEREE: You may leave.

23 MR. SASSOWER: While you are here, may I
24 also indicate for the record that she was kind
25 enough to bring the record on appeal which I

wanted two days ago from Mr. Schneider and we have it now. Okay.

There is one more thing. I understand --
Could you leave Miss Brennan?

MS. BRENNAN: Your Honor, do I have to leave?

MR. SASSOWER: Once the testimony starts, I don't want her here.

MR. STRAUS: We're not taking testimony.

THE REFEREE: All right, we're not into testimony, and again, I call your attention to the fact that you had requested a public trial, sir.

MR. SASSOWER: All trials are public except --

THE REFEREE: I know that the Court may excuse witnesses who will testify.

MR. SASSOWER: That does --

THE REFEREE: As of now, there is nobody testifying and she has not been subpoenaed as yet.

MR. SASSOWER: I understand that from a conversation that I had yesterday with Arnold Edmund of the Appellate Division, Second Judicial Department.

I made a request of him that he give me a letter setting forth the situation with regard

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2 to subpoenas and he advised me -- of course
3 I'm making it brief -- the conversation was much
4 longer than that -- and he advised me in sum
5 and substance that he had spoken to Mr. Straus
6 and he's reasonably certain that Mr. Straus
7 will convey the information as he told it to
8 Mr. Straus, which in my opinion differs radically
9 from the information conveyed by Mr. Straus,
10 whether I intentionally or inadvertently --

11 THE REFEREE: Mr. Sassower, in any event,
12 I've already ruled and unless I'm overruled by
13 the Appellate Division, that I must sign all
14 subpoenas at this hearing.

15 MR. SASSOWER: You see there are two prob-
16 lems in that regard.

17 THE REFEREE: There is no problem.

18 MR. SASSOWER: May I make a record because
19 I'm going to the Appellate Division.

20 THE REFEREE: The record is here.

21 MR. SASSOWER: Let me show the prejudice.

22 THE REFEREE: I have ruled the other day
23 likewise.

24 MR. SASSOWER: Now may I make a statement
25 for the record?

The record clearly indicates -- withdrawn.

Let me start this way.

When your Honor rules one way and advises of a procedure one way so that the parties or the attorneys have notice, fine.

I really don't care if his Honor would rule that from here on forward before we get a subpoena signed, we have to stand on our ear, but what your Honor did, and I want the record to be clear, on January 30, I made specific requests as to who signed subpoenas.

Mr. Straus said the Appellate Division.

Your Honor agreed.

Based upon that statement and another statement made by Mr. Straus that the Appellate Division will sign subpoenas -- not his Honor --

THE REFEREE: Sir --

MR. SASSOWER: Wait a second.

THE REFEREE: Sir, you don't have to be so lengthy about it.

If the Appellate Division rules otherwise, I'm bound by their ruling.

MR. SASSOWER: But you changed your mind after I received the subpoenas.

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2 THE REFEREE: No, I never changed my mind
3 at any time.

4 MR. SASSOWER: Judge, I refresh your re-
5 collection.

6 THE REFEREE: I stand to be corrected by the
7 Appellate Division.

8 As of this moment, I have no order from the
9 Appellate Division nor have you to the contrary.

10 MR. SASSOWER: Your orders were that the
11 Appellate Division sign it.

12 After I received subpoenas which contain
13 information that I need today for the proceedings
14 his Honor switched his rules.

15 THE REFEREE: Did the Appellate Division
16 sign your subpoenas?

17 MR. SASSOWER: Because they then decided
18 that your Honor should do it but your Honor said
19 that I should go to the Appellate Division, and
20 based on that, that they said only -- and when
21 I say the Appellate Division, I mean Mr. Arnold Ed-
22 mund, those that have to be signed by a judge
23 notwithstanding what his Honor said before, upon
24 which I relied upon and which I followed, his
25 Honor changed the rules ex post facto.

1
2 THE REFEREE: Sir, I would advise you to
3 back to the Appellate Division. Apparently
4 you're running over there every day according
5 to what you tell me or twice a day, last week
6 when you asked for time to cut the hearing short,
7 get a ruling from them in writing as to whether
8 or not I have the right to direct that all
9 subpoenas be signed by me or not.

10 MR. SASSOWER: I'm not denying at this
11 point that you have a right to make that demand.

12 I deny your right, I deny your right to
13 change the rule after I served the subpoenas
14 complying with your Honor's directions. If
15 you are going to have rules afterward, fine.

16 THE REFEREE: Sir, your exception is noted.

17 Are you ready for the continued hearing?
18 Mr. Sassower I don't deny your right to go to
19 the Appellate Division but do not come back
20 to this hearing and confront me with statements
21 that you claim were made by somebody in the
22 Appellate Division.

23 I want it in writing.

24 MR. SASSOWER: They said Mr. Straus will
25 tell you the straight story.

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2 THE REFEREE: I don't want any hearsay.

3 MR. SASSOWER: I'll make that request of the
4 Appellate Division.

5 THE REFEREE: Yes, Mr. Straus.

6 MR. STRAUS: I don't know if there are any
7 particular responses required but there is a
8 letter in evidence which confirms the arrange-
9 ment and I'll indicate to Mr. Sassower, as I
10 did previously that I indicated to both of
11 you gentlemen at the pre-hearing conference, that
12 it was my understanding that so-ordered subpoenas
13 were to be signed by the Appellate Division and
14 I believe that there is a Referee's Exhibit now
15 received which indicates that when I was informed
16 that the Referee should, in fact, sign the
17 subpoenas, and I think it's appropriate in this
18 case to regulate the course of the proceedings.
19 I confirmed that understanding in a letter which
20 was addressed to both of you, Judge Potoker and
21 Mr. Sassower.

22 MR. SASSOWER: Which letter?

23 MR. STRAUS: It's a Referee's exhibit.
24 At this point, I have a witness to call. I'd
25 like to call Ira Postel to the stand, please.

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2 THE REFEREE: Before we do, I'd like to
3 see the copy of the Referee's -- the document
4 you just alluded o.

5 MR. STRAUS: I think you have the Referee's
6 exhibit, your Honor. I think it's 5.

7 It's a letter addressed --

8 THE REFEREE: I don't have the exhibits.

9 MR. STRAUS: The Referee's exhibits.

10 MR. SASSOWER: Have you got a copy?

11 THE REFEREE: That's the pleadings and
12 the public hearing and I don't have 3, 4 and 5.

13 Is it part of the pleadings?

14 MR. STRAUS: No, they were also, I believe,
15 5 is a letter, is that right?

16 Three and 4 were subpoenas served on Mr.
17 Gerstein and Mr. Schneider.

18 THE REFEREE: I don't have 3, 4 and 5.

19 MR. STRAUS: It would be together with the
20 subpoenas for Mr. Gerstein and Mr. Schneider
21 which were 3 and 4, and the letter would be 5.

22 THE REFEREE: I have notes to that effect,
23 but --

24 MR. STRAUS: If your Honor please, I have a
25 copy here in my folder, if you just wanted to

1
2 refer to it.

3 THE REFEREE: Yes, maybe that will refresh
4 my recollection.

5 MR. STRAUS: We actually want 3 and 4 if
6 you can locate them.

7 MR. SASSOWER: Can I see that, Mr. Straus?

8 MR. STRAUS: This is a copy of something
9 that was marked.

10 THE REFEREE: I have Referee's Exhibit 1.
11 One is the pleadings, the answer to the petition,
12 the answer and the amended pleadings. Two is
13 the Appellate Division order for a public hear-
14 ing, and 3, 4, and 5 I don't have.

15 MR. STRAUSS: Well, 3 and 4 were subpoenas
16 and this was a copy marked as 5.

17 If we could have that deemed marked, I'll
18 make an additional copy.

19 THE REFEREE: No. I don't have that. Do
20 you have a copy of it?

21 MR. SASSOWER: I have a copy. I don't have
22 it here.

23 THE REFEREE: Will you make a copy of this?

24 MR. STRAUS: Sure.

25 THE REFEREE: Thank you.

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2 MR. SASSOWER: May I also say that not
3 only was that given as one of the reasons to
4 quash my subpoenas but all my other subpoenas
5 that I sent out I had to recall because of the
6 change of rules.

7 Can I, your Honor, get a letter to the
8 Appellate Division to that effect and, in making
9 that request of the Appellate Division, may I
10 state that your Honor wants it in writing?

11 THE REFEREE: Let's be specific. What are
12 you going to say?

13 MR. SASSOWER: Whatever you have told me.

14 THE REFEREE: I've told you, you told me
15 just now that you will tell the Appellate Divis-
16 ion what?

17 MR. SASSOWER: What happened and what
18 their desires are.

19 I'll tell them to write the whole story,
20 whatever your Honor wants I'll tell the Appellate
21 Division.

22 THE REFEREE: All I want from you, I've
23 ruled that I must sign all subpoenas. You say
24 the Appellate Division believes otherwise.

25 MR. SASSOWER: I did not say that. I'm saying,

your Honor changed the rules after I received the subpoenas and after your Honor had stated --

THE COURT: Your exception is noted, so you don't have to go to the Appellate Division.

Go ahead.

MR. STRAUS: Mr. Postel, please.

At this point Miss Brennan, if you are going to be a potential witness as Mr. Sassower believes--

THE REFEREE: Thank you very much.

I R A P O S T E L, 25 Central Park West, New York, New York, was first duly sworn in as a witness and testified as follows:

DIRECT EXAMINATION

BY MR. STRAUS:

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

A I'm an attorney.

Q Are you an individual practitioner or are you affiliated with a firm?

A I'm an individual practitioner.

Q What kind of practice do you conduct?

A I'm in general practice focusing on litigation and real estate.

Q Is that civil or criminal litigation?

1
2 A I have tried criminal cases but primarily it's
3 civil cases.

4 Q How long have you been a practicing attorney?

5 A Since 1966.

6 Q Do you know a gentleman by the name of Hyman
7 Raffe?

8 A I do.

9 Q And can you tell me when you first met Mr. Raffe?

10 A I first met him, I believe it was July 15, 1985.

11 Q Did you have any conversations with him prior
12 to meeting him?

13 A Yes, I did.

14 Q Were you subsequently retained by Mr. Raffe?

15 A I was.

16 Q Would you please relate the circumstances under
17 which you were retained?

18 A On the afternoon, I think it was July 3rd, right
19 before the July 4th holiday, I received a phone call from
20 a client of mine by the name of Larry Gordon who is a
21 friend of Mr. Raffe's and a neighbor, who wanted to
22 read something to me over the telephone, an order from
23 Judge Klein.

24 Q Do you know Judge Klein's first name?

25 A Alvin Klein. In which Mr. Raffe was held to be

in contempt of court and sentenced to 30 days in jail.

And Larry had asked me if I could find out if anybody had sent that order to a sheriff to arrest Mr. Raffee.

I then made several phone calls. One was to Mr. Schneider's office.

Q Is that Donald Schneider?

A Yes.

Q And one to --

THE REFEREE: Had you been retained by Mr. Raffee at that point?

THE WITNESS: No. Larry Gordon is a client of mine and you would have to say a relative, his cousin is my aunt.

THE REFEREE: He's a good friend of yours.

THE WITNESS: Right.

A When he called me to ask me to do this for him and since I've known him all my life, I said yes.

He gave me Mr. Schneider's office number and I called Mr. Schneider's office.

I did not speak with Mr. Schneider. I believe I spoke with Miss Brennan who told me that there was no commitment request made to the sheriff yet and then I called the sheriff's office in New York County and asked

1
2 them if they had a commitment order for Mr. Raffe and
3 they told me they did not.

4 I called Larry --

5 MR. SASSOWER: Excuse me, can we have when
6 these calls were made?

7 THE WITNESS: This was all July 3rd.

8 A I called Mr. Gordon back and gave him that. I
9 called Mr. Gordon back and gave him that information and
10 that was it.

11 Sometime the following week, and I don't rememb-
12 er the day, Larry called me again and asked me if I would
13 call Mr. Raffe and I did and I had a general discussion
14 with him at that time.

15 He told me that he had been represented by Mr.
16 Sassower and I said, basically, we rehashed, in effect,
17 the conversation that I had with Mr. Gordon on the 3rd.

18 Q Does that pertain to the contempt order, you
19 mean?

20 A Yes. I explained to Mr. Raffe that if he wanted
21 me to represent him, I'd be more than happy to and he said
22 he would get back to me.

23 Then a while -- I don't remember exactly when --
24 he called me and asked me if I would come out and meet him
25 in his office.

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Q Was this in July of '85 as well?

A Yes. I met with Mr. Raffe at his office. I think it was July 15, in Brooklyn.

Q Were you retained at that point?

A Yes, I was.

Q At the point that you were retained by Mr. Sassower --

THE REFEREE: By Mr. Raffe.

MR. STRAUS: I'm sorry, excuse me.

MR. SASSOWER: "Retained" is a conclusion and may I, at this point, note for the record that I spoke to Mr. Straus yesterday and because of the new procedures enacted by your Honor on Tuesday, I was unable -- in fact, Mr. Postel was one of the subpoena duces tecums that I had to recall, I asked Mr. Straus to have Mr. Postel bring his entire file and I'd like to ask if Mr. Postel brought my papers or documents with him.

MR. STRAUS: I think that may be appropriate for cross-examination, your Honor.

THE REFEREE: Yes.

MR. SASSOWER: The request was made through counsel and I want that noted on the record.

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2 MR. STRAUS: You can certainly ask the
3 witness if it was conveyed to him.

4 THE REFEREE: Were you retained by Mr. Raffe
5 on July 15.

6 THE WITNESS: That's correct.

7 THE REFEREE: For what purpose?

8 THE WITNESS: As Mr. Raffe explained --

9 THE REFEREE: Any specific --

10 THE WITNESS: The specific purpose for Mr.
11 Raffe engaging my services was to get him out
12 of the problem of the contempt order.

13 He wanted me to find out what I could do
14 both through the court and in discussions with
15 the Kreindler and Relkin firm and the Karesh
16 firm to make up his differences.

17 He said he wanted the Puccini litigation to
18 end.

19 THE REFEREE: He retained you to handle the
20 contempt order.

21 THE WITNESS: To handle the contempt order
22 and to, in effect, settle the Puccini litigation.

23 Q At the time that you were retained, what Puccini
24 litigation, what litigation pertaining to Puccini Clothing
25 or its shareholders was pending?

1
2 MR. SASSOWER: If he knows.

3 MR. STRAUS: Obviously if he knows.

4 THE REFEREE: If he doesn't know how could
5 he testify?

6 MR. SASSOWER: As of that date.

7 THE REFEREE: Go ahead, sir.

8 A At that time Mr. Raffe told me that there was
9 a proceeding, a dissolution proceeding brought, on.

10 He told me how he had gotten involved with Puccini
11 Clothes, with Milton Kaufman, where he had put up \$25,000,
12 Mr. Kaufman had put up \$25,000.

13 THE REFEREE: Let's forget the details
14 right now.

15 A He gave me the background of how he got into
16 Puccini. He told me that Mr. Kaufman died and there were
17 problems and that Mr. Sassower who was his lawyer and had
18 been his lawyer for many years brought on a dissolution
19 proceeding and from there it just mushroomed in effect
20 and he gave me some papers to take back to my office to
21 read just so I can get some familiarity with the problem
22 and with the case.

23 Q Did you discuss with Mr. Raffe Mr. Sassower's
24 status, if any, as his attorney?

25 MR. SASSOWER: At that time.

MR. STRAUS: At that time.

A Mr. Raffe told me that George, Mr. Sassower, had been disqualified from representing him in the Puccini litigation but that Mr. Sassower had told him that that order was going to be overturned and not to worry about it and that he could represent him.

MR. SASSOWER: May we have --

THE REFEREE: Represent whom?

THE WITNESS: That Mr. Sassower was representing him even after the disqualification in some of the matters because he was only disqualified in some matters but not all of them.

He told me and I asked him what precipitated the contempt proceeding and he gave me a copy of Judge Gammerman's order and said that George was enjoined, Mr. Sassower was enjoined from bringing lawsuits and obviously some lawsuits were then commenced and the contempt order was signed.

Mr. Raffe wasn't that familiar himself, I have to add, as to the --

MR. SASSOWER: Objection, your Honor.
No conversations or conclusions.

THE REFEREE: What did he tell you?

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2 THE WITNESS: He told me that he himself
3 wasn't sure of what had really gone on as to
4 why the contempt order -- why he was held in
5 contempt in the first place.

6 Q Did he tell you what his sources of information
7 were?

8 MR. SASSOWER: Excuse me. May we have
9 who was present at the coversation?

10 THE REFEREE: You will have that opportunity
11 on cross-examination.

12 MR. SASSOWER: I wasn't present.

13 THE REFEREE: You can't keep interrupting
14 direct examination.

15 MR. SASSOWER: Fine. May we have if I was
16 present at that conversation?

17 THE REFEREE: Will you continue, sir?

18 Q Would you continue? Did he indicate what his
19 sources of information were as to the status of the
20 Puccini dissolution?

21 A He told me that Mr. Sassower whose office was
22 in the same building as Mr. Raffe's office was, he would
23 get papers and he would ask Mr. Sassower what this was all
24 about and Mr. Sassower would tell him. "Don't worry about
25 it, I'll take care of it."

Q After you conferred with --

MR. SASSOWER: Your Honor, that's not binding upon the defendant or the defendant, unless I was present.

THE REFEREE: Nobody said anything about binding on anybody.

MR. SASSOWER: I thought your Honor would ask if I was present during this conversation so that I would know if my objection is appropriate or not appropriate, but since your Honor didn't ask, I thought I would ask.

Q Following this conversation with Mr. Raffo, what did you do, if anything, on his behalf? Try to do it chronologically, if you can.

A I know that I took the papers back. I read through them. I attended -- I made some phone calls and spoke to Mr. Schneider. I spoke with Mr. Gerstein.

Q Is that Michael Gerstein?

A Michael Gerstein.

MR. SASSOWER: What date?

THE WITNESS: I don't recall the date.

MR. STRAUS: Your Honor, I'd ask Mr. Sassower not directly interrupt the witness, allow him to answer the question.

MR. SASSOWER: Your Honor, I think on all these facts that the witness --

THE REFEREE: You are not giving Mr. Straus an opportunity. That may very well have been his next question.

MR. SASSOWER: Well, he would have said so but that has not been his course of conduct here and if your Honor would ask those questions as to when, where and who was present, I would appreciate it.

THE REFEREE: Go ahead, Mr. Straus.

Q Are you able to give us a precise date when you took these papers back and reviewed them?

A I took them back to my office that day, on the 15th.

THE REFEREE: On July 15.

THE WITNESS: On July 15, and, I reviewed them, and I called Mr. Schneider after I had gone through the papers.

THE REFEREE: The same day?

THE WITNESS: I believe it was.

THE REFEREE: And you learned that Mr. Schneider was an attorney for the receiver.

THE WITNESS: I had known that before, your

1
2 Honor, because Mr. Gordon in the conversation
3 of July 3rd had given me Mr. Schneider's name
4 as one of the lawyers involved and I had called
5 Mr. Schneider's office and had spoken to his
6 friend.

7 THE REFEREE: Continue.

8 Q Just at -- when you first spoke to Mr. Gordon
9 and he read something to you from the Law Journal --

10 A He told me it was in the Law Journal and asked
11 me if I had a copy in front of me and I didn't.

12 He read me Judge Klein's -- the decision from
13 Judge Klein in the Law Journal.

14 Q I didn't mean to interrupt you.

15 You spoke to Mr. Schneider. What happened after
16 that?

17 A I asked him -- I explained to him that I was
18 now representing Mr. Raffe and that my goal was to end the
19 litigation and that was my client's desire.

20 Q At the time that you spoke to Mr. Schneider,
21 how many active cases were there pertaining to the Puccini
22 litigation or to its shareholders?

23 MR. SASSOWER: If he knows.

24 THE REFEREE: Yes, if he knows.

25 MR. SASSOWER: At that time.

1
2 THE REFEREE: Go ahead, Mr. Straus.

3 Q Can you answer that question?

4 A I can't give you an exact number because at that
5 time I didn't know.

6 MR. SASSOWER: You didn't know?

7 THE WITNESS: I did not know the exact
8 number of cases.

9 I knew there were about at least five or
10 six of them. I didn't know there was as many --

11 THE REFEREE: How did you know that?

12 THE WITNESS: Because I had a record on
13 appeal that Mr. Raffe had given me and there
14 were about five or six captions, different law-
15 suits referred to there so I knew about those.

16 I had not seen the full schedule of cases
17 at that time and I didn't find that out, really,
18 until I spoke with Mr. Schneider who gave me
19 somewhat of a history of what had been going on
20 over the past several years.

21 THE REFEREE: All right. Next question.

22 Q Did you have occasion to examine court records
23 or files pertaining to your representation of Mr. Raffe?

24 A I examined a record on appeal that Mr. Raffe
25 had given me which contained Judge Gammerman's order.

I examined the copy of Judge Gammernan's order.

I read through some papers which I don't remember which ones I read through. I can remember when I asked, Mr. Raffe indicating the file to me, he laughed and he pointed to the elevator. He has a private elevator in his office that goes from his office down to the first floor and he pointed to the elevator which was full with boxes and he said "That's only part of it."

Q Let me show you a document, Mr. Postel, and ask you if you recognize it?

MR. STRAUS: May we have this marked for identification? That will be 38.

(Received and so marked)

Q I hand you a document and ask you if you recognize it?

A Yes.

Q You do.

A Yes.

Q Can you tell us, do you know how this document came to be prepared?

A Yes, I drafted it and dictated it to Mr. Raffe's secretary.

MR. STRAUS: At this time, I offer in evidence a one-page document purporting to be a letter

1
2 dated July 31st, 1984, addressed to George Sassower
3 above the signature of Hyman Raffe.

4 MR. SASSOWER: Objection unless you show
5 that that was sent to me or delivered to me.

6 THE REFEREE: Have you looked at this
7 document that's being exhibited to you by Mr.
8 ^{Sassower}
~~Straus~~?

9 MR. SASSOWER: I got a copy of it from
10 Mr. Straus, I would say around October or Novem-
11 ber, not this date.

12 THE REFEREE: Did you get a copy of this
13 letter?

14 MR. SASSOWER: Did I get a copy?
15 I want to hear how it was sent to me.

16 THE REFEREE: Did you get a copy of it,
17 yes or no?

18 MR. SASSOWER: The answer is "No, I got it
19 from Mr. Straus."

20 THE REFEREE: Then your answer is "no."

21 MR. STRAUS: Mr. Raffe will testify to
22 the mailing of it, in any event.

23 MR. SASSOWER: Fine. Mr. Straus knows I
24 didn't get it before.

25 MR. SATRAUS: I know no such thing.

You can testify if you wish.

THE REFEREE: This is a letter purported to have been sent by Mr. Raffe, to Mr. Sassower.

THE WITNESS: To --

THE REFEREE: To Mr. Sassower.

MR. STRAUS: The date was July 31st, 1985.

Q As of July 31st, 1985, would you explain to Judge Potoker where Mr. Raffe was located in relation to Mr. Sassower's office, if you would?

A They -- Mr. Sassower has offices at 2125 Mill Avenue which is the same office as A&R Fuels which is Mr. Raffe's company.

Mr. Raffe's office was on the second floor.

Mr. Sassower was on the first floor.

Q And did you witness the delivery of Exhibit 38 for identification?

A No, I did not.

Q You just instructed in the preparation?

A I drafted the letter in my office and called Mr. Raffe's office, spoke with his secretary and dictated it.

Q Did you have any conversations with Mr. Sassower?

MR. SASSOWER: Can we just know the date that he dictated that letter? It's rather

1
2 important, Judge, and I'll show you why it's
3 important later on, the date he dictated it.

4 THE REFEREE: Sir, a moment ago you
5 objected to its receipt in evidence so it's not
6 in evidence yet.

7 MR. SASSOWER: But he's going to offer it
8 through Mr. Raffee and Mr. Postel will be gone
9 at that time.

10 I'd like to know when it was dictated.

11 MR. STRAUS: You have a right to cross-
12 examine, Mr. Sassower.

13 MR. SASSOWER: You have to know how to
14 ask questions correctly, Mr. Straus.

15 THE REFEREE: Mr. Sassower, you may be an
16 expert in some things but not in everything.

17 MR. SASSOWER: I don't think that comment
18 was appropriate, your Honor.

19 THE REFEREE: It's appropriate to the
20 remark you just made about Mr. Straus. It was
21 made in my courtroom and I'm responsible for
22 the conduct exhibited in this courtroom. Go
23 ahead, sir.

24 Q Did you have any conversations with Mr. Sassower
25 concerning his representing or appearing for Mr. Raffee?

1
2 This is July of 1985.

3 A I met Mr. Sassower --

4 MR. SASSOWER: The answer is yes or no.
5 Objection, your Honor.

6 THE REFEREE: Please.

7 MR. SASSOWER: The answer is yes or no.

8 A Yes, I did.

9 Q If you can't answer a question yes or no, or,
10 can you form a more appropriate response, I have no object-
11 ion to that and Mr. Sassower is not putting the questions
12 to you, so please listen to my questions and answer in
13 the way that you think appropriate.

14 A The answer is "yes."

15 MR. SASSOWER: Objection to the remark
16 and the instructions to the witness. He'll --
17 the witness --

18 THE REFEREE: Mr. Straus, continue with
19 your direct examination.

20 Q Do you remember the first conversation that you
21 had with Mr. Sassower?

22 A Yes.

23 Q When was that approximately?

24 A July 15.

25 Q What did you say and what did he say?

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2 A We discussed the contempt order, Judge Gammer-
3 man's decision.

4 Mr. Sassower told me that it was totally un-
5 constitutional because there was no trial, you couldn't
6 have a criminal contempt conviction without a trial.
7 This was done on all papers.

8 He told me that Judge Gammerman's order -- I
9 don't know the exact words he used.

10 Q In substance, what did he say?

11 A That they had no force and effect.

12 THE REFEREE: Who is this?

13 THE WITNESS: This is Mr. Sassower talking.

14 THE REFEREE: To you?

15 THE WITNESS: Yes.

16 THE REFEREE: You met with him on the same
17 day?

18 THE WITNESS: On the same day.

19 THE REFEREE: In the same building.

20 THE WITNESS: In the same building.

21 THE REFEREE: His office or Mr. Raffe's?

22 THE WITNESS: Mr. Raffe's office.

23 THE REFEREE: All right.

24 Q So he told you that these orders were invalid,
25 the contempt conviction was invalid?

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2 A He said Justice Klein's order was unconstitut-
3 ional and was going to be overturned because you couldn't
4 have a criminal contempt conviction without a trial and
5 he didn't have a trial.

6 This was all on paper.

7 Q The other order, the Judge Gammerman order --

8 A He told me that it was his opinion that the
9 Judge Gammerman order was of no force and effect, that
10 Judge Gammerman couldn't stop him from bringing these
11 lawsuits.

12 Q What did you say?

13 A I believe my response was if I have an order from
14 a judge telling me not to do something, I don't do it.

15 Q Did he have any response to that?

16 A I don't recall.

17 Q Did you discuss with him whether or not he was
18 permitted or able to represent, to continue to represent
19 Mr. Raffe?

20 MR. SASSOWER: Object to the leading and
21 suggesting.

22 THE REFEREE: Overruled.

23 MR. SASSOWER: Your Honor, may the witness
24 answer as to the conversation without leading
25 and suggesting by Mr. Straus, which is the proper

way for direct examination?

THE REFEREE: Sir --

MR. SASSOWER: May I finish my remarks?

THE REFEREE: When I believe it's leading, I'll so indicate. Go ahead.

Q Can you answer the question, please?

A I don't recall that.

Q At the time that this letter was drafted, had you had any discussions with Mr. Raffé concerning Mr. Sassower's status. Just yes or no. As an attorney.

MR. SASSOWER: Excuse me, your Honor, as to all these conversations, I think it would save time if Mr. Straus would, as part of the question, ask if the conversation was by phone or in person and if Mr. Sassower was present.

THE REFEREE: All right. Will you so proceed, Mr. Straus?

Q I believe you testified previously to a conversation with Mr. Raffé at the time the letter was drafted.

A Yes.

Q Did you discuss --

MR. SASSOWER: We're talking about 38.

Q Did you have any conversations with Mr. Sassower concerning his continuing to represent Mr. Raffé?

MR. SASSOWER: When?

MR. STRAUS: The question was when, Mr. Sassower.

THE REFEREE: Objection overruled, if that's an objection. Go ahead.

Q Any conversations at all?

A I don't recall that. Most of my conversations with Mr. Sassower, and there weren't that many, revolved around the contempt order. I had seen a copy --

THE REFEREE: You wanted to get Mr. Raffe off the hook.

THE WITNESS: Exactly. That's why he was paying me.

THE REFEREE: Yes, all right.

THE WITNESS: That's what he wanted me to do. I had seen the order of disqualification and Mr. Schneider had told me about it and Mr. Gerstein had told me about it.

Q The disqualification of Mr. Sassower?

A Yes.

MR. SASSOWER: Which disqualification?

THE REFEREE: Disqualifying him from what and as of when?

THE WITNESS: I don't recall.

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Q Do you recall the judge's name?

A I think it was Judge Sinclair.

Q You had seen a copy of that order?

A Yes.

Q Mr. Postel, I handed you two documents which have been marked in evidence as Petitioner's Exhibit 2 and 3, and ask you if this refreshes your recollection as to the order which you testified about?

A Yes.

Q Having looked at the order, your recollection is now refreshed?

A Yes.

Q There are two, actually, they may be slightly different.

THE REFEREE: One is dated February 1, '82. They are both dated the same date, February 1, 1982.

THE WITNESS: It looks that way, Judge. I saw both of these.

THE REFEREE: And they are already in evidence.

Q At that time, having seen those documents, did you have any conversation with Mr. Sassower about their contents?

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A No.

Q Did you bring any proceedings or participate in any proceedings involving Mr. Raffé after you were retained?

A Yes.

Q Do you recall how many?

A Can you be more specific? Since I have been retained there have been lots of proceedings that I have attended.

Q Yes. Actually, I've been trying to give you the broadest scope.

THE REFEREE: In how many did you represent him?

MR. SASSOWER: Your Honor, may I --

THE REFEREE: Wait until he answers my question.

MR. SASSOWER: Object to the question.

THE REFEREE: Objection overruled.

MR. SASSOWER: May I put on the record, the question should be "purport to represent."

THE REFEREE: Will you, Mr. Sassower, when I say stop, you stop.

MR. SASSOWER: I'm entitled to make a record.

1
2 THE REFEREE: You will make it when I
3 honor, when I recognize you, not otherwise.

4 THE WITNESS: There have been many. I
5 can't count the number of times that I have now
6 appeared in court on behalf of Mr. Raffé in
7 matters --

8 Q When you say many, can you give us an idea,
9 more than a hundred times?

10 A No, I have not been in court a hundred times.
11 I have been in court twenty-five, thirty times since July.

12 Q Twenty-five or thirty occasions?

13 A Yes.

14 Q Those twenty-five or thirty appearances, how
15 many actions or motions or proceedings did those appearances
16 relate to?

17 A It's hard to say because they come in sometimes
18 four or five at a time in the office.

19 I can get motions some days, three, four motions
20 a day, some days.

21 THE REFEREE: Initiated by whom?

22 THE WITNESS: By Mr. Sassower.

23 THE REFEREE: On these twenty-five or thirty
24 occasions, they were all actions initiated by
25 Mr. Sassower.

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2 THE WITNESS: I can't say that they were
3 all actions initiated by Mr. Sassower.

4 Many times there were hearings before
5 Referee Diamond involving the Puccini litigation.

6 There were motions by Mr. Sassower, discov-
7 ery motions. Part 1A.

8 It's hard to keep count of how many times
9 you've been to court or how many motions have
10 come in that you have had to respond to.

11 Q Did you -- did anyone else initiate these
12 proceedings other than Mr. Sassower?

13 MR. SASSOWER: Judge --

14 A Not to my knowledge.

15 MR. SASSOWER: -- the fact is I don't send
16 anything to this man.

17 I'm telling you as a fact to save time.

18 THE REFEREE: Objection overruled. As far
19 as the question is concerned, let him answer,
20 if he can.

21 Q Can you answer the question? Do you know whether
22 anyone else other than Mr. Sassower had brought any of
23 these motions?

24 A Not to my knowledge.

25 MR. SASSOWER: Not to your knowledge?

1 THE WITNESS: I have to withdraw that.

2 THE REFEREE: He does not know.

3 MR. SASSOWER: The answer is "no."

4 MR. STRAUS: He's saying not to my know-
5 ledge and he's trying to continue and at this
6 ppoint, Judge Potoker, I'd ask you to direct
7 Mr. Sassower not to testify while the witness is
8 testifying.
9

10 THE WITNESS: There have been several mot-
11 ions, some that I have made to hold Mr. Sassower
12 in contempt for violating -- continual violations
13 of Judge Gammernan's order.

14 Q And you brought those motions on behalf of whom?

15 A I brought a motion on behalf of Mr. Raffe to hold
16 Mr. Sassower in contempt.

17 I have brought on several cross-motions where
18 Mr. Sassower would make a motion allegedly on behalf of Mr.
19 Raffe. I would then cross-move on behalf of Mr. Raffe
20 for, one, a denial of the motion; two, an order directing
21 Mr. Sassower not to bring any actions on, purportedly on
22 behalf of Mr. Raffe and for an order formally substituting
23 me as Mr. Raffe's counsel.

24 Q Have any of your motions been decided by the
25 courts?

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A Not yet.

Q After you were retained by Mr. Raffé, were there occasions in which Mr. Sassower purported to appear for Mr. Raffé in the same proceeding?

MR. SASSOWER: Your Honor, the better way, I think is to show the document. Your Honor has no document. I don't know what he's talking about.

THE REFEREE: I know. You will develop that on cross-examination, sir.

Continue, Mr. Straus.

MR. SASSOWER: I say it goes to admissibility. The best evidence is the document, not what he says.

THE REFEREE: Go ahead, Mr. Straus.

Q Can you answer that question?

A Can you repeat the question?

THE REFEREE: Objection is overruled.

(Question repeated)

A Yes.

MR. SASSOWER: Objection, best evidence, your Honor.

THE REFEREE: Mr. Sassower, I have already ruled. Continue, Mr. Straus.

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2 MR. SASSOWER: May I have a continuing
3 objection?

4 THE REFEREE: Yes, you may have a continuing
5 objection now and throughout the entire hearing.

6 Q Mr. Postel, did Mr. Sassower bring any appeals
7 in which he purported to act as the attorney for Hyman
8 Raffo?

9 A Yes.

10 Q Have you seen the papers pertaining to those ap-
11 peals?

12 A I believe so.

13 Q Has -- let me direct your attention to Petition-
14 er's Exhibit 11 for identification, specifically to sub-
15 paragraph B, and I ask you to disregard the writing next
16 to the letter "D" where it says "appeals commenced in
17 violation of court order" and I'd ask you to look at the
18 enumerated items.

19 MR. SASSOWER: May I look at it?

20 THE REFEREE: We're talking about Petitioner's
21 10 and 11 for identification.

22 MR. STRAUS: They are part of the pleadings
23 as well.

24 THE REFEREE: They are part of the pleadings.

25 MR. STRAUS: Sub-paragraph D.

THE REFEREE: Schedule 1 and Schedule 1A.

MR. STRAUSS: This is 1A sub-paragraph D.

MR. SASSOWER: Can I look at it so I can pull out the right one?

MR. STRAUS: You have it.

MR. SASSOWER: Let me look at it for a second.

THE REFEREE: You may look at it.

MR. SASSOWER: Would you give me a moment, your Honor?

THE REFEREE: Yes, you can have a moment.

MR. SASSOWER: Thank you, your Honor.

Q Have you had an opportunity to look at the matters enumerated there?

A Yes.

Q Is that list accurate as to appeals instituted by Mr. Sassower purportedly on behalf of Mr. Raffae?

I'm not asking you if it's complete. Is it accurate?

A Yes.

Q Were there any other actions brought by Mr. Sassower which -- any other appeals?

MR. SASSOWER: Wait a second. Whoa, whoa. You are talking about 1 through 9, right, on

that list, the whole exhibit, the whole schedule.

THE REFEREE: Yes. You have it in front of you.

MR. SASSOWER: Fine. I say, your Honor, objection. That's a conclusion as to whether they are in violation of any court order.

MR. STRAUS: You don't listen, Mr. Sassower. I specifically told the witness to disregard the legend next to the letter "D" --

THE REFEEEEE: We already did that, sir, so wait a minute.

We deleted the words "In violation of court order" at the time it was marked for identification. Those words are no longer part of that exhibit.

MR.SASSOWER: Maybe I'm mistaken. Will the Stenographer please read the question again?

(Question repeated)

THE REFEREE: There is nothing about violation of court orders. It's not in there.

MR. SASSOWER: Okay, as long as --

THE REFEREE: We're not assuming anything.

MR. SASSOWER: We can stipulate that part is left out of the question.

THE REFEREE: You don't have to stipulate.
You wanted the Court Reporter to read it back.
He read it back to you.

Continue Mr. Straus. He hasn't answered the
question.

A I know there is other proceedings before the
Second Circuit Court of Appeals that do not appear here.

Q Any others?

A Not that I can recall, at the moment.

Q You will note that the first -- what is the first
date, Number 1, what is the date next to that?

MR. SASSOWER: It speaks for itself, your
Honor.

A It's 9-85.

THE REFEREE: It's not received in evidence
so it can't speak for itself. You are a stickler
for the law.

MR. SASSOWER: You're right, your Honor.

THE REFEREE: This is the first concession
you have made.

MR. SASSOWER: No, I don't. Maybe it's the
first time I was wrong.

THE REFEREE: We'll take a five minute recess.

(Recess ensues)

1
2 THE REFEREE: Thus far we have scheduled
3 continued hearings on March 4, 6, 11 and 13.

4 As to future -- as to dates thereafter,
5 Mr. Sassower has indicated that he is unavailable
6 on Tuesday, March 18 in the morning, and in view
7 of the fact that it would be a short day other-
8 wise, and that you'd rather not have a hearing
9 on the 18, is that right?

10 MR. SASSOWER: Yes. May I make another re-
11 quest in the same vein, since I'm preparing new
12 subpoenas, and since I'm trying to conform to
13 your Honor's desires, if I schedule those supoen-
14 as -- there are two ways I can do it, and I ask
15 for your Honor's preference.

16 I can schedule all, for let's say the 13
17 and put on the subpoenas subject to telephone
18 call or other communication, or I can stagger
19 them which I'll put that notation on anyway but
20 if I make them beyond March 13, can I assume
21 I can use any Tuesday and Thursday?

22 THE REFEREE: Wait, the week of March 24,
23 if we go into that week, I'm also available on
24 Wednesday, Wednesday, March 26, I'm available
25 the 25th, 26th and 27th of that week.

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2 MR. STRAUS: I'd like to make arrangements
3 for two days but subject to this room being avail-
4 able or another room being available.

5 THE REFEREE: It will give us three consecu-
6 tive days.

7 MR. SASSOWER: So do I understand, your
8 Honor from Mr. Straus, that -- let me put it
9 the other way, because I'm not too sure of the
10 answer.

11 MR. STRAUS: That will be the 24th, 25th
12 and 26th.

13 THE REFEREE: Five, six and seven.

14 MR. STRAUS: Five, six and seven.

15 THE REFEREE: And the eighth is Good Friday
16 so that's out.

17 MR. SASSOWER: Between the 13th and 25th,
18 If I make subpoenas returnable, what date would
19 you suggest, your Honor?

20 THE REFEREE: There is only one day left
21 that week. That's the 20th.

22 MR. SASSOWER: So, tentatively --

23 THE REFEREE: I don't think you ought to
24 tie up people and ask them to be here on the
25 20th even subject to telephone call because they

1
2 may have other matters that they are obliged
3 to take care of.

4 You have a pretty good idea of how long you
5 think they will be on the witness stand so you
6 should stagger them.

7 MR. SASSOWER: Your Honor, what I generally
8 do is serve subpoenas and tell them it's subject
9 to telephone call and I tell them to contact
10 the Court or myself as to their availability,
11 their conveniences, their preferences and I try
12 to work out a schedule which accomodates, as far
13 as possible, everybody.

14 THE REFEREE: All right, are we ready, Mr.
15 Sassower, to continue?

16 MR. SASSOWER: Sure.

17 THE REFEREE: You will make arrangements,
18 Mr. Straus, for those additional dates, the
19 25th, 26th and 27th.

20 MR. SASSOWER: And the 20th.

21 THE REFEREE: And the 20th, thank you, sir.

22 A Mr. Postel, before dictating the draft of
23 Exhibit 38 for identification, did you have a conversation
24 with Mr. Raffé concerning Mr. Sassower's status as his at-
25 torney?

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A Yes.

Q What did Mr. Raffe tell you as to Mr. Sassower's status?

THE REFEREE: Can we have an approximate date?

MR. SASSOWER: This would be July 1985, your Honor.

A At that time --

MR. SASSOWER: Your Honor --

THE REFEREE: That July 15, the same date.

THE WITNESS: From the 15th on, your Honor, I think I spoke to Mr. Raffe on a daily basis.

MR. SASSOWER: May the record show, your Honor, that from the time Mr. Postel took the stand, he's speaking without reference nor does he have ultimately any records, memorandum or anything else?

THE REFEREE: You have already made your objection.

MR. SASSOWER: I want to state the observation.

THE REFEREE: If he had looked at any records, you would have objected.

MR. SASSOWER: Absolutely not.

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2 THE REFEREE: You mean if it wasn't in evi-
3 dence.

4 MR. SASSOWER: To refresh his recollection.

5 THE REFEREE: Now you're agreed to refresh
6 his recollection.

7 MR. SASSOWER: What else are they for?

8 THE REFEREE: Sir, continue.

9 MR. SASSOWER: This is all by memory.

10 THE REFEREE: Go ahead. On cross-examination --

11 MR. SASSOWER: I know what I can do on cross-
12 examination, thank you, your Honor for reminding
13 me.

14 THE REFEREE: You spoke to him on the 15th
15 and on a daily basis thereafter.

16 THE WITNESS: Including weekends.

17 Q Specifically, the subject of Mr. Sassower's
18 status as Mr. Raffe's attorney.

19 A Well, it was Mr. Raffe's understanding, as he
20 explained to me, that the court had disqualified George
21 from representing him any further in the Puccini litigat-
22 ion.

23 Q Did Mr. Raffe take any action that you are aware
24 of to instruct Mr. Sassower to do or not to do anything?

25 A Yes.

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2 Q Do you know what he did?

3 MR. SASSOWER: No, objection as hearsay.

4 THE REFEREE: Do you know what who did?

5 Q Do you know what Mr. Raffe did?

6 THE REFEREE: If he knows the answer, he may
7 answer.

8 MR. SASSOWER: Of your own knowledge.

9 Q Of your own knowledge.

10 A Mr. Raffe told me --

11 MR. SASSOWER: Objection. This is hearsay.

12 THE REFEREE: Go ahead.

13 MR. SASSOWER: This is rank hearsay.

14 THE REFEREE: Please, sir, you have made
15 your objection. Overruled. He told you what?

16 THE WITNESS: He told me --

17 MR. SASSOWER: When and where and who was
18 present?

19 THE REFEREE: Please, will you continue, sir.

20 A Mr. Raffe told me that in around January, the
21 beginning of the year, 1985, that he had told Mr. Sassower
22 that he wanted to stop all the Puccini litigation and that
23 he wanted Mr. Sassower to stop bringing any proceedings of
24 any kind in the Puccini litigations.

25 Q At the time that you spoke to Mr. Raffe in July

of 1985 --

MR. SASSOWER: This is important. May we have the date of that conversation?

Q In July of 1985, Mr. Postel --

THE REFEREE: Which conversation?

MR. SASSOWER: This last conversation.

THE REFEREE: The conversation between you and Mr. Raffe.

MR. SASSOWER: Between Mr. Postel and Mr. Raffe.

THE REFEREE: It's sometime after July 15th.

MR. SASSOWER: That could be anytime, your Honor.

THE REFEREE: So it could be. Can you give us a specific date, sir?

THE WITNESS: It would have to have been the 15th and the date of that list, the 31st, as I said at that time, I was speaking with Mr. Raffe on a daily basis on the telephone or going out to his office in Brooklyn or even meeting him at his home in Atlantic Beach because my father and father-in-law have a home in Atlantic Beach so I would meet him there on weekends or Saturdays and Sundays.

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2 Q Were you aware or do you have personal knowledge
3 of any actions which Mr. Sassower instituted purportedly
4 on behalf of Mr. Raffe after January of 1985?

5 A Yes.

6 Q Do you know how many?

7 A I know of two that were started I believe in
8 April. Only summonses were served which was the precipi-
9 taing act which brought about the contempt motion which
10 was on before Justice Klein.

11 MR. STRAUS: I'd like this document marked
12 for identification, please.

13 This would be 39 for identification, your
14 Honor.

15 (Received, so marked)

16 Q Mr. Postel, I show you a four-page document
17 and ask you if you have seen this before?

18 A Yes, I believe I have.

19 Q Is this one of the documents that you were re-
20 ferring to as an action brought after January of 1985?

21 A Yes.

22 MR. STRAUS: I offer this in evidence as
23 Exhibit 39.

24 MR. SASSOWER: What is the question, a
25 motion or an action?

MR. STRAUS: I think the --

THE REFEREE: The witness testified that there were two actions.

MR. SASSOWER: This is an affidavit. What was the question again?

THE REFEREE: Will you read the question back?

(Question repeated)

MR. SASSOWER: I have no objection but let the record show that, that Mr. Straus is showing Mr. Postel an affirmation executed by me dated April 27, 1985, containing three pages without exhibits.

MR. STRAUS: May I have that back, please?

MR. SASSOWER: I want to make a note of it. Okay.

THE REFEREE: All right, The letter will be received in evidence as Petitioner's Exhibit --

MR. SASSOWER: No, for identification.

MR. STRAUS: It's already marked for identification.

THE REFEREE: It's been offered in evidence.

MR. SASSOWER: Objection, it's an affidavit. Oh, okay, it's an affirmation, period. I have no objection.

THE REFEREE: It will be received in evidence then as Petitioner's Exhibit 39.

(So marked)

Q Mr. Postel, --

MR. SASSOWER: By the way, by having no objection to this being in evidence, I don't concede that he has knowledge of this fact.

THE REFEREE: Go ahead, Mr. Straus.

Q Mr. Postel, I would like to direct your attention to any proceedings, actions, motions, in which Mr. Sassower purported to represent Hyman Raffe after January 1985?

That's what I'm directing your attention to.

Are you aware of such actions, proceedings, motions or any other all encompassing term?

MR. SASSOWER: No. Objection.

MR. STRAUS: Let me withdraw the last part.

MR. SASSOWER: What he knows of his own personal knowledge. Somebody may have told him something on the street and that makes him aware of something, it doesn't make it admissible.

THE REFEREE: All right, Mr. Straus.

Q Are you aware of such instances?

A I am.

MR. SASSOWER: Pardon me?

THE WITNESS: I am.

THE REFEREE: He is.

MR. STRAUS: May I have this marked for
identification?

(Received, marked Petitioner's 40 for
identification)

Q Would you look at Exhibit 40 for identification
and tell me if you have seen that before.

A I have.

Q Is this one of the instances or is that an in-
stance in which Mr. Sassower purported to represent Mr.
Raffe?

A It is.

MR. STRAUS: I offer it in evidence as
Exhibit 40.

THE REFEREE: Show it to Mr. Sassower.

MR. SASSOWER: Your Honor, so that the
record is clear and my mind is clear, we're all
speaking about the same thing -- Mr. Straus
by this exhibit you are not contending that I
violated any court order, are you, or are you
just saying --

MR. STRAUS: This exhibit relates and all
exhibits which Mr. Postel will be asked to

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2 testify about or has already, relate to Charge 6
3 which alleges that --

4 MR. SASSOWER: All right.

5 MR. STRAUS: -- in violation of Mr. Raffe's
6 instructions, you continued to purport to
7 represent him.

8 MR. SASSOWER: Okay.

9 MR. STRAUS: That's the purpose of these docu-
10 ments.

11 MR. SASSOWER: Okay, your Honor, no object-
12 ion. So that we understand the limitations,
13 that's not taken as meaning that I violated any
14 order.

15 MR. STRAUS: I take no position on it one
16 way or the other. That's not the purpose of the
17 offer.

18 MR. SASSOWER: No, no, no.

19 THE REFEREE: Mr. Sassower --

20 MR. STRAUS: Whether --

21 THE REFEREE: Mr. Sassower, as stated by
22 Mr. Straus, that they violated the instructions
23 of Mr. Raffe --

24 MR. SASSOWER: Okay.

25 MR. STRAUS: Let me also say in response

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2 so that your head will remain clear, it is my
3 understanding that Judge Potoker will examine
4 the orders in effect and if any of these documents
5 submitted by you violated those court orders, he's
6 free to reach the conclusion that they violated such
7 orders.

8 MR. SASSOWER: Absolutely not, because I'll
9 tell you one thing right now, in one of these
10 cases -- let's talk about 40 specifically, in
11 none of these cases, in none of the affidavits in
12 opposition, as I recall, in none of them was there
13 any assertion made by anybody or by the court
14 that it violated any court order.

15 THE REFEREE: The Court will address itself
16 in its final recordings to the charges made against
17 you.

18 MR. SASSOWER: No, your Honor.

19 THE REFEREE: If it's not in the charges,
20 I'll not address it.

21 MR. SASSOWER: I want to know if this docu-
22 ment is being submitted --

23 THE REFEREE: It's being submitted as already
24 stated as a violation of the instructions of Mr.
25 Raffe.

MR. SASSOWER: Period.

THE REFEREE: Go ahead, sir.

MR. STRAUS: I offer this in evidence as Exhibit 40. This is a document consisting of 12 pages purporting to be a notice of motion and annexed affirmation in the matter of Hyman Raffé and George Sassower, Esquire, individually and on behalf of Puccini Clothes, Limited, and Sam Polur, Esquire, against the justices of the Supreme Court of the State of New York, Appellate Division, First Department and the Supreme Court, State of New York, County of New York.

It's a photocopy. May I have that marked in evidence, your Honor.

THE REFEREE: No objection? It's received in evidence.

MR. SASSOWER: I do not object, subject to verification, as to the correctness of the document, or that I prepared it.

As to its admissibility -- I really would like before -- I do not object -- to know specifically for what purpose, for the purpose that I started litigation in violation of Mr. Raffé's instructions, in that respect, no objection.

As to any other respect, yes.

(Received and marked)

MR. SASSOWER: May I have a ruling of the Court?

THE REFEREE: You are not objecting so it's received in evidence.

MR. SASSOWER: It's objected to for any other purpose except Charge 6.

Is your Honor accepting it for all purposes or just as to Charge 6 because I'd like to know.

THE REFEREE: Sir, I'm accepting it in response to the witness' answer that these actions violated the instructions of Mr. Raffe.

MR. SASSOWER: Fine, we're in agreement, your Honor, but your Honor must realize so far we have had no testimony.

THE REFEREE: Sir --

MR. SASSOWER: We have had no testimony of any instructions.

MR. STRAUS: Mr. Raffe will be called as a witness.

MR. SASSOWER: So it's subject to connection and may I note for the record that when I offered documents subject to connection --

1
2 MR. STRAUS: These aren't offered subject
3 to connection.

4 THE REFEREE: I haven't accepted anything
5 subject to connection.

6 MR. SASSOWER: Then I object to it as being
7 violative of instructions because there is no
8 evidence of any instructions being given, but,
9 if Mr. Straus --

10 THE REFEREE: Sir, the instructions --

11 MR. SASSOWER: Where's the instructions?

12 THE REFEREE: The letter from Mr. Raffe.

13 MR. SASSOWER: I never received that letter.

14 THE REFEREE: That's for identification only.
15 It has not been received in evidence, Petition-
16 er's 38.

17 MR. SASSOWER: I object to it because there
18 is no evidence of instructions here.

19 THE REFEREE: Let's go on, Mr. Straus.

20 MR. SASSOWER: Your Honor, objected to.
21 There are no instructions thus far in evidence.

22 If Mr. Straus will make a representation --

23 THE REFEREE: I'm sorry, if you don't know
24 the difference between a document marked for
25 identification and a document received in evidence.

1
2 MR. SASSOWER: This is in evidence as
3 violative of instructions and there are no
4 instructions so far in the record by any
5 competent proof.

6 THE REFEREE: Go ahead, sir.

7 MR. STRAUS: May I have this marked as 41,
8 please?

9 THE REFEREE: As 41?

10 MR. STRAUS: Yes.

11 THE REFEREE: Petitioner's 41 for identifi-
12 cation.

13 (Received, so marked)

14 Q Would you look at Exhibit 41 for identification,
15 please, and tell me if you recognize it?

16 A Yes, I do.

17 Q Is this a document that was filed in court?

18 A Yes.

19 MR. STRAUS: I'll offer this in evidence
20 as Exhibit 41.

21 THE REFEREE: Mr. Sassower. You may look
22 at the document being offered.

23 MR. SASSOWER: May I have a voir dire,
24 please?

25 THE REFEREE: Go ahead.

1
2 VOIR DIRE EXAMINATION:

3 BY MR. SASSOWER:

4 Q Mr. Postel, this Petitioner's Exhibit 41 for iden-
5 tification, is a notice of motion dated November 10, 1985,
6 returnable November 22nd, 1985, in the case of Raffe against
7 Arut, et cetera, index number 15604 of 1982.

8 First question, Mr. Postel, and you may look at
9 the document, is, as an attorney, would you say that action
10 was commenced --

11 MR. STRAUS: Objection.

12 MR. SASSOWER: Wait a second.

13 MR. STRAUS: That's not a matter for aprop-
14 riate voir dire.

15 MR. SASSOWER: May I?

16 THE REFEREE: Go ahead.

17 Q Does it bear a 1982 index number?

18 A It does.

19 Q That means --

20 THE REFEREE: Don't say that means.

21 MR. SASSOWER: Your Honor can take judicial
22 notice that it had its start --

23 THE REFEREE: It has a 1982 index number.
24 I have a right to assume that's when the action
25 was commenced.

Q Mr. Postel, who did you get that document from?

A Tim Butler.

Q Tim Butler gave it to you.

A Yes.

Q By the way, is this the document that you gave Mr. Straus?

MR. STRAUS: Objection. There is no testimony that Mr. Postel gave me any documents.

MR. SASSOWER: Okay.

Q Mr. Butler gave you that document and he's from Damato and Lynch.

A Mr. Tim Butler, against Arutt, et cetera, index number 15604 of 1982.

THE REFEREE: Are you through with your voir dire?

MR. SASSOWER: Yes.

Q When did you receive it from Mr. Butler?

A Before the return date of the motion. The exact date I can't tell you.

THE REFEREE: In any event, Mr. Sassower, I gather it is your position since this was a 1982 matter, that you are not bound by any orders from Mr. Raffe or anybody else in July of 1985?

MR. SASSOWER: Absolutely not true.

THE REFEREE: What then is the basis --

MR. SASSOWER: When it comes my turn, your Honor.

I want to know where he got it from.

THE REFEREE: He just told you.

MR. SASSOWER: Okay.

Q Do you know who the attorney for the defendants was on the record of that case?

A Damato and Lynch.

THE REFEREE: You are going --

MR. SASSOWER: That's all, that's all, okay.

THE REFEREE: It's received in evidence. Objection, if you're making any, is overruled.

It's Petitioner's 41.

MR. SASSOWER: I have a continuing objection and I don't have to repeat the grounds and I think your Honor would prefer that, except is Mr. Straus representing to this Court that he will bring in testimony that this motion or this motion or this action was contrary to the specific instructions of Mr. Raffo?

Are you going to bring that testimony in?

THE REFEREE: Sir, that's what I said a

1
2 a moment ago -- your position is, and you said
3 "No."

4 MR. SASSOWER: You said a little more than
5 that.

6 THE REFEREE: Let's go.

7 MR. STRAUS: This is a --

8 THE REFEREE: The Court Reporter will mark
9 it Petitioner's Exhibit 41.

10 MR. STRAUS: This is a ten-page document
11 purporting to be a notice of motion or an af-
12 fidavit, excuse me, with attachments submitted
13 under the name of George Sassower in the case
14 of Hyman Raffe against Arut, Nachamie, Benjamin,
15 Lipkin and Kirschener, PC.

16 THE REFEREE: Is that another document?

17 MR. STRAUS: I'm describing it. It hasn't
18 been marked in evidence yet.

19 MR. SASSOWER: Your Honor, for your Honor's
20 edification, I think we'll have a concession on
21 this, since your Honor was not a judge in New
22 York County, in Part 1A, and only in Part 1A,
23 you did not have a notice of motion and then an
24 affidavit or affirmation and exhibits, but your
25 top sheet was what we call an affidavit or

affirmation of good faith so that if you are a little confused --

THE REFEREE: I'm not confused at all.

MR. SASSOWER: This document is in its right order. I don't think the other one was. All right.

(Received marked Petitioner's 41 in evidence)

MR. STRAUS: Can I have this marked as 42, please.

(Received, marked Petitioner's 42 for identification)

Q Mr. Postel, would you look at Exhibit 42 and tell me if you have seen that before.

A I have.

Q Is this a copy of a document that was submitted in connection with court proceedings?

A Yes, it looks to be.

Q Yes?

A Yes.

MR. STRAUS: I offer this in evidence as Exhibit 42.

THE REFEREE: Mr. Sassower, you may look at it.

MR. SASSOWER: May I say, your Honor, it's the same document as 41.

MR. STRAUS: Is it included in 41?

MR. SASSOWER: Yes. Compare it.

MR. STRAUS: If it's a copy then I certainly don't want to give it another number.

I'll withdraw the offer, your Honor, excuse me.

THE REFEREE: All right. The offer is withdrawn.

MR. STRAUS: One less document.
May I have this document marked as Exhibit 42, a different document?

(Received so marked)

Q Mr. Postel, would you look at 42 for identification and tell me if you recognize that, sir?

A Yes.

Q Is this a copy of a document which was submitted to the court?

A It was.

MR. STRAUS: I offer this in evidence as Exhibit 42. This is a multi-captioned document.

The three cases are Hyman Raffé against Xavier Riccobono, Donald Diamond, Feltman, Karesh and Mager and Kreindler and Relkin.

MR. SASSOWER: The exhibit speaks for itself.

MR. STRAUS: I'm identifying it.

The second action is Raffé against Kreindler and Relkin, Honorable Walter Schackman, John Doe and Hyman Raffé against Donald Relkin, Michael Gerstein, Kreindler and Relkin, Citibank, NA and Jerome H. Barr.

MR. SASSOWER: So that we'll properly identify it, your Honor, it's a notice of motion returnable December 10, 1985, made on November 23rd, 1985.

You have the pages mixed up.

Do you mind if I correct it?

Which asks that the order of Judge Alvin Klein be vacated against William Raffé.

MR. STRAUS: I have no objection to Mr. Sassower's adding to the description.

It's offered in evidence and the question is whether you have an objection.

I certainly have no objection to your describing it more accurately, if you feel the description was inaccurate.

MR. SASSOWER: May I say your pages are either mixed up or incomplete?

The second page of the notice of motion is missing and what you put as the second page

to a notice of motion is actually an affidavit.

May I have a voir dire on this?

THE REFEREE: For what purpose?

MR. SASSOWER: Because this is not a proper exhibit and I think your Honor will concede it.

THE REFEREE: Does what you believe is an omission affect the document?

MR. SASSOWER: Yes, I believe so.

THE REFEREE: All right, go ahead.
Before you do, will you see if you have another copy of this?

(Off record discussion)

MR. SASSOWER: Your Honor, I'll bring a proper copy.

THE REFEREE: Let them look at it in the interim.

Maybe the collation was done wrong.

MR. SASSOWER: I'm trying to save time.
I'll bring in a copy.

MR. STRAUS: If you have a copy.

MR. SASSOWER: I don't have it here.

MR. STRAUS: If you have a copy then I would ask that it be deemed marked in evidence subject to Mr. Sassower providing the actual copy.

1
2 The purpose obviously -- this is a notice
3 of motion with an annexed affirmation.

4 If the photocopying produced an inaccurate
5 document and Mr. Sassower has the accurate docu-
6 ment, I have no objection to that one going in.

7 THE REFEREE: Mr. Sassower, if you have a
8 corrected copy to substitute, we'll substitute
9 your copy for this.

10 MR. SASSOWER: Provided one thing that you
11 will remind me at the next session as to whether
12 I brought it because I'll try to remember.

13 THE REFEREE: You won't forget it.

14 MR. STRAUS: I would ask that it be received
15 in evidence subject to that subsequent substitut-
16 ion.

17 MR. SASSOWER: May I make a modification so
18 there is no problem? Take out Page 2 and let's
19 receive it as an incomplete document.

20 Take out Page 2 that you got here which
21 doesn't belong to it, the second page.

22 MR. STRAUS: I have no objection, since -- I
23 have no objection to doing that.

24 MR. SASSOWER: I'll bring Page 2 of the
25 notice of motion.

THE REFEREE: Leave 2 in temporarily.

MR. SASSOWER: Well, 2 doesn't belong.

MR. STRAUS: You can substitute it.

MR. SASSOWER: I want 2 out. Two goes out.
I'll bring in Page 2, okay?

THE REFEREE: Remove Page 2 now.

MR. SASSOWER: I can take it from the word
processor.

MR. STRAUS: I'm taking Page 2 out right
in front of your eyes.

THE REFEREE: Hold on to it in case it's
an accurate copy.

MR. SASSOWER: Because I just have to take
it off the word processor without looking at the
papers.

THE REFEREE: The 11-23-85 page.

MR. SASSOWER: The 11-23-85, page 2 of the
notice of motion. Okay.

THE REFEREE: That will be received in evi-
dence as Petitioner's Exhibit 42 except as to
Page 2.

MR. STRAUS: There isn't any Page 2.

THE REFEREE: Which has been deleted and
Mr. Sassower will, if he has it available at the

1
2 next hearing date, substitute his Page 2 for the
3 deleted Page 2.

4 MR. SASSOWER: Or make another copy from the
5 word processor.

6 (Marked Petitioner's 42 in evidence)

7 MR. STRAUS: May I have this marked as 43
8 for identification?

9 (Marked Petitioner's 43 for identificat-
10 ion)

11 Q Mr. Postel, I show you 43 for identification
12 and ask you if you recognize that.

13 A I can't say with a hundred percent accuracy that
14 I have seen this before.

15 Q Okay. You can't say that with any degree of
16 certainty.

17 A No.

18 MR. STRAUS: May we have this marked as
19 44 for identification, please?

20 MR. SASSOWER: Could you show me 43 so I
21 can indicate what it is.

22 (Petitioner's 44 marked for identification)

23 MR. SASSOWER: May I make a suggestion?
24 I would have no objection if you'd mark this as
25 39-a. It's part of that same proceeding and you

1
2 you can introduce it subject to the same object-
3 ions, same testimony and you can save a lot of
4 testimony, because 39a --

5 THE REFEREE: Well, 39 is a four-page
6 document dated April 27, 1985 in a Supreme Court
7 proceeding.

8 MR. SASSOWER: This is in the same case.

9 MR. STRAUS: This would be 43. I don't
10 know that it has to be.

11 THE REFEREE: Mr. Sassower is proposing
12 that it be made --

13 MR. STRAUS: I have no objection.

14 THE REFEREE: So 39 will be amended to in-
15 clude this.

16 MR. STRAUS: Can we mark this as 39a?

17 THE REFEREE: Yes.

18 MR. STRAUS: As 39a in evidence.

19 THE REFEREE: How many pages?

20 MR. STRAUS: This consists of three pages,
21 your Honor.

22 It's an affirmation dated June 3rd, 1985,
23 by George Sassower.

24 (Received, so marked)

25 MR. SASSOWER: Your Honor, I will also make

the objection, particularly as to this document.

THE REFEREE: You were the one that requested that it be incorporated into 39 as 39a.

MR. SASSOWER: Please listen to me, your Honor.

THE REFEREE: All right.

MR. SASSOWER: May the record show that the document is incomplete and I'm speaking specifically in reference to this document, that I would appreciate if Mr. Straus would get the exhibits which were annexed to this affidavit and include it as part --

MR. STRAUS: If I had the exhibits, Mr. Sassower, I would attach them.

Obviously I don't have them.

MR. SASSOWER: Who did you get this from?

MR. STRAUS: Mr. Sassower, I'm not going to answer your questions.

You are the one who introduced it or offered it in evidence.

You want it to be part of 39a and now you are going to make an objection to your own suggestion.

MR. SASSOWER: You want to number it any

way you want --

MR. STRAUS: We're doing it your way.

MR. SASSOWER: I'm not interested where Mr. Straus got this affidavit from.

All I ask your Honor, in fairness is, will your Honor permit me to, either one, subpoena the County Clerk's file, which will have the entire thing with the exhibits because this doesn't make sense without the exhibits; or Number 2, if Mr. Straus will attempt to get the exhibits that were annexed to it.

MR. STRAUS: No, absolutely not. As you know the size of the County Clerk's file pertaining --

MR. SASSOWER: It's this big, it's an inch and a half big, are you kidding me? You don't know. I know.

MR. STRAUS: You can apply for a subpoena for that file if you want to supplement it, you can.

You are certainly free to do that and I would imagine that for that purpose --

THE REFEREE: It will not be 39a. It will be Exhibit 44 for identification.

1
2 MR. SASSOWER: Will you mark, your Honor,
3 apparently all these exhibits except for one,
4 which had no exhibits, as I recall, that on all
5 these presentations that there is an additional
6 object that they are incomplete, specifically
7 that they do not contain the exhibits and the
8 exhibits in some cases are very important.

9 THE REFEREE: It will speak for itself.
10 I'm not going to add or subtract to it.

11 MR. STRAUS: In addition, if your Honor
12 pleases, these exhibits, as we have said before,
13 are offered only for the purpose of showing that
14 Mr. Sassower was purporting to continue to
15 represent Hyman Raffe after the date that we
16 allege he was discharged and instructed not to
17 proceed with any further litigation. For that
18 purpose, this is certainly adequate.

19 MR. SASSOWER: Okay.

20 THE REFEREE: All right, received in evidence,
21 44.

22 MR. STRAUS: We have managed to get ourselves
23 confused by this.

24 THE REFEREE: You had one document 43 that
25 was not offered. That was for identification only.

1
2 Then you offered this as 44 and Mr. Sassower
3 suggested that we make it 39a and it dropped
4 by the way, so it's back to 44.

5 This document was previously marked 43 for
6 identification. This is the 43 document.

7 MR. STRAUS: I would offer it. Do we have
8 a 43 in evidence?

9 THE REFEREE: That document was only for
10 identification.

11 MR. STRAUS: Mr. Sassower wanted it included
12 with 39, so, it's not offered for anything.

13 MR. SASSOWER: Put it in.

14 THE REFEREE: What about 43?

15 MR. STRAUS: Again I make the same offer.
16 It can be received as 39a if that's what he wants.
17 He saying he doesn't have an objection?

18 MR. SASSOWER: I only made a suggestion.

19 THE REFEREE: It's being received as Exhibit
20 43 with the understanding that it's part and
21 parcel of 39.

22 MR. STRAUS: It will be received in evidence.

23 THE REFEREE: Yes, 43.

24 MR. SASSOWER: Objection.

25 THE REFEREE: Objection overruled.

Q Back to 44 for identification, Mr. Postel --

MR. SASSOWER: May I see it?

MR. STRAUS: You can't see it until the witness has been asked about it.

MR. SASSOWER: It's 43 I want to see.

Q Mr. Postel, would you look at 44 for identification, do you recognize that document?

A Yes.

Q Is this a document that was filed in connection with a court proceeding?

A It was.

Q Or it's a copy of it.

A It is.

MR. STRAUS: I offer this in evidence as Exhibit 44.

MR. SASSOWER: For what purpose?

MR. STRAUS: I don't know the purpose of repeating it again.

All of these exhibits --

THE REFEREE: It's another document that Mr. Straus is offering as an action filed by you or a proceeding filed by you subsequent to the date that they allege that Mr. Raffe discharged you as his attorney, is that correct,

1
2 Mr. Straus?

3 MR. STRAUS: That's correct, and, specifically
4 instructed him to bring no further litigation.

5 MR. SASSOWER: Okay. The instructions
6 according to the letter that your Honor was
7 given was dated, I believe, July 31st.

8 MR. STRAUS: That letter is not in evidence
9 but, in fact, it refers to six months earlier
10 he had discharged you.

11 THE REFEREE: Mr. Straus indicated that he
12 will have Mr. Raffe here to testify.

13 MR. SASSOWER: Forgetting about what
14 the contents of the letter, the letter was
15 purportedly executed on July 31st, 1985.

16 Thus far, you have no evidence as to the
17 truth of the contents. This affidavit, and I'm
18 talking about Page 43, is June 3rd, 1985.

19 MR. STRAUS: We've said it over and over,
20 Mr. Sassower, the allegation is that you were
21 instructed by your former client not to bring
22 any litigation and that instruction was given to
23 you in January of 1985, therefore, this is sub-
24 sequent to the instructions.

25 MR. SASSOWER: Okay. May I find out at this

time if the instruction was in writing, oral,
where and when?

MR. STRAUS: Mr. Raffe will testify to that,
I'm sure, he'll testify fully.

THE REFEREE: The document will be received
in evidence as Petitioner's Exhibit 44.

MR. STRAUS: Let me just describe it for the
record.

This is a 15-page affirmation in the matter
of Hyman Raffe against Citybank NA, Jerome H.
Barr individually and as executors of the
estate of Milton Kaufman, deceased, and Kreindler
and Relkin PC, and it bears index number 817 of
1985.

(Received and so marked)

THE REFEREE: And the affidavit was dated
June 3rd, '85.

MR. STRAUS: It's dated December 23rd, 1985.

THE REFEREE: The affidavit is included in
the exhibits.

MR. STRAUS: It is the exhibit, your Honor.

MR. SASSOWER: May I have one question on
the voir dire?

MR. STRAUS: It's in evidence.

MR. SASSOWER: But one question.

THE REFEREE: Let him get one question in.

VOIR DIRE EXAMINATION

BY MR. SASSOWER:

Q Mr. Postel, on this last exhibit, December 23rd, 1985, who did you receive that document from?

That's the only question that I have.

THE REFEREE: Wait.

A I received several copies of this. I received one from Mr. Gerstein. I received one from Mr. Raffe.

MR. STRAUS: May I continue?

May I have this marked for identification as 45?

(Received, so marked)

BY MR. STRAUS:

Q Would you look at 45 for identification, please, and tell me if you recognize that.

A Yes.

Q Is this a copy of a document that was filed in connection with court proceedings?

A Yes.

MR. STRAUS: I offer this in evidence as Exhibit 45.

This is a notice of motion and annexed affirmation in the matter of Hyman Raffee against Feltman, Karesh, Major, index number 8749-1985.

The affirmation is dated January 4, 1986
as is the notice of motion.

MR. SASSOWER: May I ask you also, Mr.
Postel, who you received this document from?

THE REFEREE: Who he what?

MR. SASSOWER: Who he received this document
from.

MR. STRAUS: Let me show it to him.

MR. SASSOWER: I thought he might not --
are you just assuming from the papers or do you
know?

THE REFEREE: That's Exhibit 45 for iden-
tification being exhibited to the witness.

A I received a copy from Mr. Schneider and a copy
from Mr. Raffee.

MR. SASSOWER: That copy which you have in
your hand, is that the copy that you received
from Mr. Raffee or the copy you received from Mr.
Schneider?

THE WITNESS: This copy?

MR. SASSOWER: Yes, or is this a copy of a
copy? That copy was from Mr. Raffee or from Mr.
Schneider?

THE WITNESS: That copy was from Mr. Straus.

1
2 MR. SASSOWER: Before you sent it to Mr.
3 Straus, did you receive that particular copy
4 from Mr. Raffe or Mr. Schneider?

5 THE WITNESS: I cannot be certain which
6 copy I received but I can tell you Mr. Sassower,
7 that everything you sent to Mr. Raffe gets deliver-
8 ed to me.

9 MR. SASSOWER: Okay. Now, the question is,
10 when all these documents that are sent to you
11 get delivered to you, are you saying by Mr. Raffe
12 or by Mr. Raffe or Mr. Gerstein?

13 MR. STRAUS: If your Honor pleases, I
14 thought this was one question on the voir dire.

15 I don't know where we're going.

16 MR. SASSOWER: It's very, it's very important
17 where the document came from.

18 MR. STRAUS: Not if it's an accurate copy,
19 it doesn't make any difference where it came from.

20 MR. SASSOWER: I don't know that's accurate.

21 MR. STRAUS: He's testified that it's ac-
22 curate.

23 MR. SASSOWER: How does he know what the
24 original looks like?

25 THE REFEREE: May I look?

MR. SASSOWER: May I ask one or two more questions?

VOIR DIRE EXAMINATION

BY MR. SASSOWER:

Q When you received the documents from Mr. Raffe, Mr. Gerstein or Mr. Schneider, and/or, do you get any covering letter or any notations, yes or no?

A From Mr. Raffe, no.

Q And Mr. Schneider?

A Sometimes, yes; sometimes, no.

Q And Mr. Gerstein.

A Sometimes, yes; sometimes, no.

Q Okay.

MR. SASSOWER: I object to it because -- I'll bring this out later on.

THE REFEREE: Objection overruled.

Exhibit 45 received in evidence.

(Received, so marked)

MR. STRAUS: May I have that marked 46 for identification?

(Received, so marked)

BY MR. STRAUS:

Q Would you look at 45 for identification, please, and tell me if you have seen that document before?

A Yes, I have.

1
2 Q Is that an accurate copy of the document filed
3 in connection with court proceedings?

4 A It appears to be, yes.

5 MR. STRAUS: I offer in evidence a six page
6 document, which is a notice of motion -- excuse
7 me -- an eight page document, a notice of motion
8 and annexed affirmation dated January 4, 1986 by
9 George Sassower in Hyman Raffe against Feltman --

10 MR. SASSOWER: That's not important.

11 MR. STRAUS: Just a minute, -- Hyman Raffe.

12 THE REFEREE: All right.

13 THE WITNESS: Your Honor, may we have a
14 five minute recess?

15 THE REFEREE: The witness asks that we take
16 a recess.

17 (Recess ensues)

18 MR. STRAUS: Your Honor, 46 for identification
19 was actually included in 45 in evidence so I'll
20 have that marking.

21 Is it all right if I cross that out?

22 THE REFEREE: We'll vacate that.

23 MR. STRAUS: Okay. I'll cross it out.

24 MR. SASSOWER: May I suggest, Mr. Straus,
25 that could come to my attention faster if you

Postel-direct

511.

would read the index number first, then I could cross-check.

MR. STRAUS: May I have this marked as Exhibit 46 for identification?

(Received, so marked)

THE REFEREE: The index number on that?

MR. STRAUS: Is 192043 of 1985.

MR. SASSOWER: What is this offered for, Mr. Straus, for what purpose?

MR. STRAUS: May I see it?

MR. SASSOWER: Sure.

MR. STRAUS: This is dated January 18, 1986 in which Mr. Sassower seeks to intervene.

MR. SASSOWER: What?

MR. STRAUS: The caption is Sheriff against Feltman, et cetera.

I think that will speak for itself as an action taken in contravention of Mr. Raffe's instructions to you.

THE REFEREE: That's the claim.

Q Would you look at that, please, Mr. Postel?

A I have seen this.

Q Is this a copy of a document that was filed in connection with court proceedings?

1
2 A I believe so.

3 MR. STRAUS: I offer this in evidence as
4 Exhibit 46.

5 You have the index number, 192043.

6 It's a notice of motion with an annexed
7 affirmation from Mr. Sassower.

8 Both are dated January 18, 1986.

9 THE REFEREE: January 18.

10 MR. STRAUS: Yes, 1986.

11 MR. SASSOWER: May I have a moment, your
12 Honor?

13 THE REFEREE: Who initiated that, Mr. Straus?

14 MR. SASSOWER: The sheriff.

15 THE REFEREE: I'm inquiring of Mr. Straus.

16 MR. SASSOWER: If he knows.

17 MR. STRAUS: This is apparently proceedings
18 and enforcement pertaining to the Puccini
19 litigation.

20 MR. SASSOWER: You're wrong.

21 MR. STRAUS: If I'm wrong, I'll certainly
22 stand corrected Mr. Sassower.

23 MR. SASSOWER: I'll answer your Honor's quest-
24 ion.

25 If you know, answer it, if you don't know,

know, please don't answer it.

THE REFEREE: In any event, Mr. Sassower, was it an action initiated by you and you sought to intervene, is that right?

MR. SASSOWER: I have no objection to this going into evidence for whatever purpose.

This, to answer your Honor specifically, this was an action brought by the sheriff.

THE REFEREE: All right.

MR. SASSOWER: Wait -- against Feltman, Karesh and Major to recover monies from Feltman Karesh and Major, pursuant to an execution against Hyman Raffie and George Sassower which I knew nothing about.

When I learned about it --

THE REFEREE: Now you're testifying.

MR. SASSOWER: I'm answering your question.

THE REFEREE: You already answered it. It was an action initiated by the sheriff, period.

MR. SASSOWER: I made a motion to intervene when I learned about it.

THE REFEREE: All right.

MR. SASSOWER: By the way, your Honor, your Honor since this is an important document and

Postel-direct

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and not too good a copy, where the situation exists and I have a better copy, may we substitute a better copy?

THE REFEREE: Yes, you will show it to Mr. Straus.

MR. STRAUS: It's offered in evidence as Exhibit 46.

THE REFEREE: Exhibit 46.

MR. SASSOWER: As violating the instructions of Mr. Raffe.

THE REFEREE: Yes.

(Received, so marked)

MR. SASSOWER: And that came from where?

THE WITNESS: I received it.

MR. SASSOWER: Who did you get that copy from?

THE WITNESS: Mr. Raffe.

MR. STRAUS: And the document itself indicates that a copy was served or sent to Hyman Raffe.

The document itself indicates that.

THE REFEREE: All right.

MR. STRAUS: Can I have this marked 47 for identification, please?

(Received, so marked)

Q Mr. Postel, would you look at 47 for identificat-

ion, and tell me if you have seen that before?

A I've seen it, I believe.

Q You have seen this?

A Yes.

Q It's a copy of a document submitted in connection with court proceedings.

A Yes.

MR. STRAUS: I offer this in evidence as Exhibit 47.

This is under file number 8470305, United States District Court for the Eastern District of New York, Hyman Raffe individually and on behalf of Puccini Clothes, Ltd., against Citibank, Jerome H. Barr, et al.

There are various claims. I'm not going to read them.

It's a notice of motion and an annexed affirmation by Mr. Sassower dated January 5, 1986.

MR. SASSOWER: And the representation made by Mr. Straus is that's being submitted in what respect? For what purpose? That's contrary to Mr. Raffe's instructions?

MR. STRAUS: Should I answer the question?

THE REFEREE: Yes.

MR. STRAUS: Yes, it's part of the offer
pertaining to Charge 6.

In fact, I think the date is approximately
a year afterwards.

MR. SASSOWER: Again, may I find out from
Mr. Postel who you received this from?

THE WITNESS: Mr. Raffe.

MR. SASSOWER: Is this the copy that you
received from Mr. Raffe, if you know?

THE WITNESS: This is not the copy that I
received from Mr. Raffe.

I received another copy.

MR. STRAUS: Of the same document.

MR. SASSOWER: Did you take that document and
send it to Mr. Straus?

THE WITNESS: No.

MR. SASSOWER: This is the only document you
didn't send to Mr. Straus?

THE WITNESS: Excuse me?

MR. SASSOWER: This is the only document--

MR. STRAUS: Objection to that. He hasn't
testified that he sent any documents to me so
how can you ask him if this is the only document?
He never testified to sending any documents.

1
2 THE REFEREE: This is voir dire and not
3 cross-examination.

4 MR. SASSOWER: I want to know where this
5 particular document came from.

6 MR. STRAUS: He's indicated that, Mr. Raffe.

7 THE WITNESS: The actual piece of paper
8 which I'm holding in my hand?

9 MR. SASSOWER: Yes.

10 THE WITNESS: I have no idea where it came
11 from.

12 MR. STRAUS: He testified he got a copy
13 from Mr. Raffe and one to Charles H. Straus,
14 I think, and this is a copy of a copy that Mr.
15 Raffe gave him.

16 MR. SASSOWER: I'd like to see Mr. Raffe'
17 copy. This is the point.

18 MR. STRAUS: May that be received in evi-
19 dence, your Honor?

20 THE REFEREE: It will be received in evi-
21 dence.

22 MR. SASSOWER: With the objection.

23 THE REFEREE: As Exhibit 47.

24 (Received, so marked)

25 MR. STRAUS: Out of no disrespect, I have

1
2 been standing a long time, if you don't mind,
3 may I continue sitting down?

4 THE REFEREE: By all means.

5 Q After being retained by Mr. Raffe in July of
6 1985, I believe you testified to some conversations that
7 you had with Mr. Raffe.

8 If you would, proceeding chronologically, did
9 you have any conversations with Mr. Sassower?

10 A I think there were three, possibly four.

11 The first one was on July 15. There was a second
12 conversation in Mr. Raffe's office that I recall. I can't
13 recall the exact date. It was probably in the late summer
14 or early fall of --

15 Q Of 1985?

16 A Yes.

17 MR. SASSOWER: What would that mean in months?

18 THE WITNESS: Either August or September. It
19 was at the same time I was negotiating a settle-
20 ment agreement with both the receiver and Citi-
21 bank and the Kaufman estate.

22 One of the things that I specifically --
23 the agreement provided that Mr. Raffe was going
24 to end all the litigation and to the best of our
25 abilities Mr. Sassower would no longer be bringing

1
2 any more proceedings. One thing that I insisted
3 had to be carved out of that restraint was Mr.
4 Sassower's rights to bring any proceedings
5 that he wanted or he deemed appropriate with res-
6 pect to the contempt proceedings which were
7 instituted against him, which was agreed to by Mr.
8 Schneider and Mr. Gerstein and I was -- I was in
9 Mr. Raffe's office going over the terms of the
10 settlement with him, and Mr. Sassower was there
11 and I stopped him because I wanted to tell him
12 what I was doing and that I was carving out from the
13 agreement his rights to proceed against Schneider
14 or Relkin with respect to the contempt.

15 Q By his, you mean Mr. Sassower?

16 A Mr. Sassower's individual rights that he wanted
17 to proceed if he so elected to as against the Kreindler
18 firm and Feltman firm with respect to the contempt motions
19 that were brought and Mr. Sassower didn't want to talk to
20 me about it.

21 I remember him saying to me, "The settlement is
22 a criminal act. I don't want to take part of any criminal
23 act" and that was it.

24 Q Did you have any subsequent --

25 MR. SASSOWER: Wait a second.

Q Did you have any subsequent conversation -- wait --

MR. STRAUS: Do you have an objection?

MR. SASSOWER: Yes, for a moment, will you please?

MR. STRAUS: There's no question, Mr. Sassower.

MR. SASSOWER: I want to ask one.

MR. STRAUS: It is not appropriate for you to ask questions.

MR. SASSOWER: I want nothing to do with the criminal act.

THE REFEREE: Continue with the direct examination.

Q Did you say anything in response to Mr. Sassower's statement?

A No, I didn't.

Q Did you have any subsequent conversations with him?

A I recall another conversation that I had with Mr. Sassower subsequent to that. I don't remember the date.

It was in the Clerk's Office, in Special Term Part 1, in Supreme Court, New York County.

I was there checking something out and Mr. Sassower had come in and I said hello to him and I said to him, "George, this has to stop."

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Q What did he say?

A I said to him, "It's making Mr. Raffe sick already, this whole thing, this litigation has got to stop."

He said, "Well, have him put it in writing," something to the effect that he wanted something in writing from Mr. Raffe and I relayed that message to Mr. Raffe.

What Mr. Raffe did with that I'm not one hundred percent sure.

Then I don't think I ever had any other conversations with Mr. Sassower because on the times that our paths crossed either in the courthouse or only in the courthouse at a hearing before Referee Diamond or just meeting him in the courthouse, and I extended my hand to shake his hand, as I was brought up to do, he said, "I don't want to shake your hand and talk to you," so that was it and so I can't say other than those instances that I recall any conversations of any substance with Mr. Sassower.

Q Mr. Postel, on some of the documents that have been received in evidence, there are indications that copies were sent to Hyman Raffe.

A That's correct.

Q Had you told at any time -- at any time had you told Mr. Sassower that you represented Mr. Raffe?

A I don't think I had to tell him specifically.

He knew I was representing Mr. Raffee.

MR. SASSOWER: Don't tell me what I knew.

THE REFEREE: Mr. Sassower.

MR. SASSOWER: Strike out "He knew."

Q Did you ever tell him that you were representing Mr. Raffee?

A Yes, I appeared in court with Mr. Sassower before in Special Term, part 1A where I appeared as Mr. Raffee's attorney and Mr. Sassower was present.

Q Did you state your appearance on the record?

MR. SASSOWER: Can we have the date, please?

THE REFEREE: Yes.

Q Do you know when that was?

A I don't know the exact date; it was on the return date of the motion, one of the papers that I had identified before, the proceedings in Special Term 1A involving the Arutt and Nachamie firm. It was in November.

Q Of 1985?

A Yes.

Q Do you want to look at the document to refresh your recollection?

A I don't know if that would have the exact return date but I know it was in the Arutt-Nachamie matter. It was in November. The exact date I don't remember.

MR. SASSOWER: Objection.

MR. STRAUS: Let him finish his answer.

THE REFEREE: Overruled. Go ahead.

MR. STRAUS: Can we have the full answer before you object?

THE REFEREE: Continue with your answer.

MR. SASSOWER: I want to state the grounds for my objection.

THE REFEREE: Objection is overruled. Continue with your answer.

A I can also tell you Mr. Sassower must have known that I was Mr. Raffe's lawyer because he sued me for --

MR. SASSOWER: Objection.

THE REFEREE: Overruled.

A -- he sued me for tortious interference with a relationship between a client and attorney.

THE REFEREE: When?

THE WITNESS: On the return date of the motion.

Q In November of '85?

A In November of '85.

Q Can you give us some details as to the nature of Mr. Sassower's claim against you?

A There has been no complaint yet.

THE REFEREE: Pardon?

THE WITNESS: There is no complaint. It's only a summons.

Q Did Mr. Sassower serve you on other occasions or institute actions against you on other occasions?

A He served me, as I just said and he has filed a grievance against me with the Appellate Division, First Department Grievance Committee.

Q Mr. Postel, setting aside the contempt order against -- the conviction against Mr. Raffé, was Mr. Raffé subject to or was he assessed any penalties, costs, attorneys' fees, in conjunction with litigation pertaining to Puccini Clothes or its shareholders?

A Yes.

Q Do you know the amounts?

Do you have anything with you that would refresh your recollection as to the amounts?

A Yes.

Q Would you look at that?

THE REFEREE: That will be Exhibit 48 for identification. Those are notes that you made yourself.

THE WITNESS: Yes. I made these this morning.

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2 THE REFEREE: You may look at it to refresh
3 your recollection, sir.

4 MR. STRAUS: Do you want it deemed marked
5 or marked?

6 THE REFEREE: Make it deemed marked.

7 (Deemed marked Exhibit 48)

8 MR. SASSOWER: May I see what he's reading
9 from?

10 THE REFEREE: He's not reading from it.
11 He hasn't read anything or said anything.

12 He said he'll use it to refresh his recol-
13 lection.

14 Q Is your recollection refreshed at this point?

15 A Yes.

16 Q Are you able to testify in response to my quest-
17 ion?

18 A I am.

19 Q Would you give us the figures, please?

20 A There was an assessment of \$11,500 which was
21 paid to Feltman, Karesh and Major.

22 There was another assessment of \$5,000, I believe
23 also paid to Feltman, Karesh and Major.

24 THE REFEREE: They are the attorneys for the
25 receiver.

1
2 THE WITNESS: Correct. There is an assess-
3 ment, I believe from Judge Knickerson of 9,000 --
4 I think it was jointly and severally in the amount
5 of over \$18,000 against Mr. Raffé and Mr. Sassow-
6 er and Mr. Raffé has paid the entire amount.

7 Then there is \$464,000.

8 THE REFEREE: How much?

9 THE WITNESS: That's \$464,000 attorney's fee
10 awarded to, I believe it's Kreindler and Relkin
11 firm.

12 MR. SASSOWER: I was not the attorney --

13 MR. STRAUS: Would you please, sir?

14 MR. SASSOWER: I'm sorry.

15 THE REFEREE: You'll have cross-examination.

16 Q Attorneys' fees of \$464,000 assessed against Mr.
17 Raffé?

18 A That's my understanding. That's up on appeal
19 at the moment.

20 Q Have any funds been attached in connection with
21 that judgment?

22 A It's bonded and the bond is secured by a letter
23 of credit in the full amount of the judgment.

24 Q That was to Kreindler and Relkin.

25 A I believe so.

1 THE REFEREE: Who are Kreindler and Relkin
2 with relation to the entire matter?
3

4 THE WITNESS: They represent Citibank and
5 the estate of Milton Kaufman.

6 Q Were any fees paid to the Feltman, Karesh, Major
7 firm?

8 A Yes, the attorneys --- the \$11,500, the 5,000 and
9 the 18,000 and I believe there's another -- I believe
10 there is an assessment of eight thousand some odd dollars
11 to another firm which has not been paid yet. The attorney's
12 name is John Price, but I can't remember the firm.

13 Q Is that in connection with Puccini litigation?

14 A Yes, I know there is a fee application presently
15 pending before Judge Conner.

16 Q By whom?

17 A Kreindler and Relkin.

18 Q In what amount?

19 A I don't recall but it's not insubstantial. There
20 is also a fee application pending by the Attorney-General
21 of the State of New York. I think that's around 18 or
22 \$20,000. I believe that's also before Judge Conner and I
23 believe there is a fee application pending before Judge
24 Nickerson.

25 Q Do you know what the amount asked for is in

1
2 that application?

3 A I don't recall.

4 Q Were any other penalties assessed that you
5 are aware of against your client?

6 A Not that I'm aware of.

7 Q Was there any other judgment? That's 400,000.
8 Was there any other judgment in an equivalent amount?

9 MR. SASSOWER: Excuse me. I think this is
10 outrageous because this man comes not with the
11 original documents but with a little business
12 card.

13 THE REFEREE: Sir --

14 MR. SASSOWER: No, your Honor --

15 THE REFEREE: Sir, he has a right to
16 testify.

17 On cross-examination you may go into it.
18 You may try to disprove what he said.

19 MR. SASSOWER: Your Honor told me that he
20 was a judge for twenty-one years. Lawyers do
21 not leave files at home when they testify and come
22 with a little business card they are looking at to
23 mislead the Court and you only have to be a
24 lawyer or a judge one year to know that. I
25 have no bills of particular here.

THE REFEREE: Go ahead, Mr. Straus.

Q Mr. Postel, do you have files pertaining to the Puccini litigation?

A Many.

Q If you were to carry them in this door would you be able to carry them in this door?

A Absolutely not.

Q Can you give Judge Potoker an idea of the volume of those materials?

A I'm in the process of leaving my office so I have been packing up files and I'm in this matter since July and I now have five, six cartons of documents involving Puccini and that's not the whole file.

Q Mr. Postel, are you billing Mr. Raffo or what is your arrangement?

A I --

MR. SASSOWER: Objection, your Honor.

THE REFEREE: Overruled.

A Yes. I bill him.

Q How do you bill him, on what basis, hours worked?

A We started out on an hourly basis and we've sort of worked our arrangement and now I bill him on a monthly basis.

Q Directing your attention solely to litigation instituted by Mr. Sassower, directing your attention to

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2 that subject alone, can you tell me how many hours
3 you have devoted to that litigation?

4 MR. SASSOWER: Objection. It takes an
5 inefficient attorney twenty times as long as an
6 efficient attorney.

7 MR. STRAUS: You can ask that on cross-exami-
8 nation. You are not to interject.

9 THE REFEREE: Go ahead.

10 Q Can you estimate that?

11 A Hundreds.

12 Q Hundreds. How many hundreds?

13 A Since July.

14 Q Yes.

15 A Four or five hundred hours.

16 Q What was --

17 THE REFEREE: Did you say four or five hundred
18 hours?

19 THE WITNESS: Yes.

20 Q What was your original hourly billing rate?

21 A I was billing Mr. Raffe \$125 an hour.

22 Q And to this point, what is the total of the
23 bills that you have submitted to Mr. Raffe, limiting it
24 only to the litigation instituted by Mr. Sassower?
25

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2 A I can only tell you because I just received a 1099
3 from his office the other day what I received from July
4 through December.

5 Q What was that figure?

6 A It was \$19,750.

7 Q I believe you testified that you are an individual
8 practitioner.

9 A That is correct.

10 Q Would you indicate to us to what extent has
11 this litigation, that is litigation instituted by Mr.
12 Sassower, affected your practice of law?

13 MR. SASSOWER: Judge, I object to it.
14 You're in litigation, you get paid to litigate
15 and I'm not interested in his other practice of
16 law.

17 MR. STRAUS: Judge Potoker should be be-
18 cause it's the consequences of the frivolous
19 litigation.

20 THE REFEREE: Have these proceedings inter-
21 fered with your practice of law generally?

22 THE WITNESS: It has because there are times
23 when I have to devote --

24 THE REFEREE: How much time would you say
25 since July '85 that you have devoted exclusively

to the litigation which you allege was initiated by Mr. Sassower?

THE WITNESS: July and August and September it was virtually total.

Q By total, how many hours a week?

A It's hard to say how many hours a week. I was in constant communication with Mr. Raffe and with Schneider and Mr. Relkin.

There were meetings with Mr. Raffe and meetings with Mr. Schneider and Mr. Relkin.

There were court appearances; just reviewing the papers that came in on a daily basis has been incredible.

MR. SASSOWER: Objection. I don't understand what he's talking about.

He's presented ten documents.

Wait a second. And he's talking about incredible.

THE REFEREE: I know but you will have an opportunity to cross-examine him, sir.

MR. SASSOWER: I understand that, your Honor.

THE REFEREE: Apparently you don't want to understand it.

MR. SASSOWER: He's giving conclusions. I

haven't seen any incredible documents, I've seen six or seven documents, not one of them was addressed to him, if one was addressed to him.

Q By the way, you indicated that Mr. Sassower knew that you were the attorney for Mr. Raffe.

A Right.

Q And did he send any documents --

MR. SASSOWER: Objection.

Q Did Mr. Sassower --

MR. SASSOWER: His Honor struck the words "He knew." I don't know how Mr. Postel knows this.

MR. STRAUS: He testified as to how you knew.

MR. SASSOWER: Your Honor struck that part.

THE COURT: I didn't strike that portion of it.

MR. SASSOWER: Yes, your Honor did.

THE COURT: I struck some hearsay portion that somebody told him.

MR. SASSOWER: I object to what he knows.

THE REFEREE: He said he met you in court.

MR. SASSOWER: And --

THE REFEREE: And you knew he was representing Mr. Raffe.

1 MR. SASSOWER: Did I --

2
3 MR. STRAUS: He's testified that he gave
4 his appearance when you were present.

5 THE REFEREE: Go ahead, Mr. Straus.

6 Q Has Mr. Sassower ever sent any of those docu-
7 ments to you as Mr. Raffe's attorney?

8 A No.

9 MR. SASSOWER: Okay.

10 MR. STRAUS: I have no further questions,
11 your Honor.

12 THE REFEREE: We'll recess until 2:15.

13 (Recess ensues)

14 (Afternoon session)

15 THE REFEREE: Cross-examination, Mr. Sassower.

16 CROSS EXAMINATION

17 BY MR. SASSOWER:

18 Q Mr. Postel, initially let's set forth the re-
19 lationship. You knew and know that I was the attorney for
20 Hyman Raffe for approximately thirty years. Do you know
21 that?

22 THE REFEREE: Were you apprised of that
23 fact at any time?

24 THE WITNESS: Yes, Mr. Raffe told me.

25 Q And I know that whatever you are doing is trying

1
2 in your way to help Hyman Raffe.

3 MR. STRAUS: Objection. Is that a question?

4 MR. SASSOWER: It's a question.

5 MR. STRAUS: That Mr. Sassower knows some-
6 thing?

7 Q It is not obvious that you were engaged to help
8 Hyman Raffe?

9 A I was engaged to represent Mr. Raffe.

10 THE REFEREE: He was retained for that pur-
11 pose, right, sir?

12 THE WITNESS: Yes.

13 Q And I do not wish to, in any way, impugn your
14 knowledge or ability.

15 Now, Mr. Postel, what is your relationship to
16 his Honor George Postel?

17 THE REFEREE: What's --

18 MR. SASSOWER: Just a connection.

19 THE REFEREE: George Postel is a retired
20 Supreme Court justice.

21 Q What is your relation to him?

22 A He's my father.

23 Q Mr. Postel, when you were first consulted by
24 Mr. Gordon and then spoke to Mr. Raffe on July 3rd,
25 did you form an opinion as to whether the conviction

of Hyman Raffe was constitutional, yes or no?

MR. STRAUS: Objection.

THE REFEREE: I'll permit him to answer it.

A On July 3rd?

Q On July 3rd.

A Didn't think of it in those terms at all.

Q Didn't think of it in those terms.

Did there come a time when you did have an opinion?

A Yes.

Q And when did you come to get an opinion?

A After I reviewed the papers from Judge Klein's order.

Q And did you look up any authority in any respect?

MR. STRAUS: Objection, if your Honor please.

THE REFEREE: Sustained.

Q On what date did you state that you were retained, sir?

A To the best of my knowledge, it was July 15.

Q July 15.

A Yes.

Q And was that retainer in writing or was it oral?

A It was oral.

Q Was it confirmed in writing?

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A No.

Q Was it ever confirmed in writing?

A No.

Q Well, what did you say to Mr. Raffe and what did Mr. Raffe say to you whereby you advised the court that you were retained?

MR. STRAUS: Objection.

THE REFEREE: Overruled.

MR. STRAUS: But, if your Honor please, I don't think he's ever made that representation.

THE REFEREE: You had a conversation with Mr. Raffe.

THE WITNESS: I did.

THE REFEREE: As a result of the conversation he says, "I'd like to retain you as counsel."

THE WITNESS: That's right.

Q To do what, sir?

A To resolve and end the Puccini litigation and try to keep Mr. Raffe from having to go to jail.

Q You have been practicing, I think, about twenty years, sir.

A That's correct.

Q And, of course, growing up in a household of a judge, you knew even some law before you went to law school,

1
2 whenever that was, right?

3 A I wouldn't know.

4 Q When you were retained on July 15, 1985, as you
5 say, you knew that George Sassower was handling the mat-
6 ters under his name for Hyman Raffe, yes or no?

7 A I knew you had.

8 Q Did you know that I was the attorney of record
9 on most of the cases, yes or no?

10 MR. STRAUS: Objection to the form of that
11 question.

12 THE REFEREE: Overruled.

13 A I didn't know all the cases.

14 Q Were you aware that --

15 MR. SASSOWER: Withdrawn.

16 Q On the cases that I was the attorney of record
17 and actually the attorney and sole attorney, were you
18 retained by Mr. Raffe to substitute me?

19 MR. STRAUS: Objection, your Honor.

20 There's been no testimony that this witness knew
21 that Mr. Sassower was the attorney of record in
22 any case at that time.

23 THE REFEREE: Did you know that there were
24 actions pending in which Mr. Sassower was represent-
25 ing Mr. Raffe?

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2 THE WITNESS: I knew there were many actions
3 pending involving the Puccini litigation, the
4 dissolution of Puccini Clothes, that Mr. Sassower
5 had represented Mr. Raffe, but there was an order
6 disqualifying Mr. Sassower from representing Mr.
7 Raffe in the Puccini litigation.

8 THE REFEREE: A court order?

9 THE WITNESS: Yes, your Honor.

10 THE REFEREE: That's what Mr. Raffe told
11 you.

12 THE WITNESS: Yes.

13 Q Did you make any independent investigation?

14 A I was given a copy of Judge Sinclair's order.

15 Q And Judge Sinclair's order --

16 MR. SASSOWER: May I have Judge Sinclair's
17 order?

18 THE REFEREE: There are two orders,
19 Petitioner's Exhibits 2 and 3 in evidence.

20 Q And these two orders only cover two pieces of
21 litigation, is that correct?

22 A I don't have it in front of me.

23 Q Here they are. Here you are.

24 A Yes.

25 THE REFEREE: The answer is?

THE WITNESS: Yes.

Q In Petitioner's 2 -- this is not a precise quote --

THE REFEREE: As long as you have it in front of you, give us the precise quotes.

MR. SASSOWER: There are two or three quotes precisely insofar as Exhibit 2 is concerned.

Q It states, "Ordered that the third party defendants Eugene Dann, Robert Sorrentino and Puccini Clothes, Limited motion for an order disqualifying George Sassower as attorney for Hyman Raffe is granted."

And what's crossed out is that the disqualification in other cases is crossed out, is that correct?

A It appears to be that way.

Q So that I was -- according to the order, I was only disqualified as to the third party action, and, in fact, Judge Danzig ruled that way.

MR. STRAUS: Objection.

THE REFEREE: Sustained.

Q Isn't it correct that the order only disqualified me to the third party defendants according to the order?

A That's what the order says.

Q And, in Exhibit 3, doesn't it also say that I am disqualified on motion of Eugene Dann, Robert Sorrentino and

Puccini Clothes and the portion which says that I am disqualified in any other proceeding is crossed out.

A It appears to be so.

Q Now --

MR. SASSOWER: May I have the exhibit?

(off record discussion)

Q The action of Hyman Raffe against Arutt, Nachamie which bears an 82 index number, when you received motion papers in that case, at that time or before, did you know why Hyman Raffe was suing the Arutt firm, yes or no?

MR. STRAUS: First of all, I'm going to object because there is nothing in evidence that Hyman Raffe was suing the Arutt firm at that point.

MR. SASSOWER: It's '82.

MR. STRAUS: The question was at the point that he received the papers.

Q Do you know what the cause of action against the Arutt firm by Hyman Raffe was, yes or no?

A Not one hundred percent.

Q Not one hundred percent, but you have an idea.

A It was a malpractice claim, as I understand it.

Q See if you substantially agree with me, is it not a fact that in the 1982 suit Hyman Raffe was suing

1
2 the Arutt firm?

3 A That's what the caption says.

4 Q For serving a cross-motion to disqualify George
5 Sassower in the third party action and then after receiving
6 George Sassower's opposing papers, they changed, actually
7 substituted, physically and made changes on the original
8 motion papers and submitted the changed copy to the judge
9 and my answer, and so the papers say, my opposing papers
10 become nonsense, when it became sense and we only discover-
11 ed that after the decision had been rendered, generally,
12 without agreeing --

13 MR. STRAUS: Objection. Is that a question?

14 A What is the question?

15 Q Is that your general understanding of what the
16 suit was against the Arutt firm?

17 A No.

18 Q And who did you get your understanding from?

19 A Mr. Sassower, truthfully, I did, I have, I really
20 don't remember reading the complaint in that lawsuit.

21 All I do know is that by the time you filed your
22 motion with respect to that lawsuit, Mr. Raffé had signed
23 the stipulation discontinuing the action.

24 Q Excuse me, if you don't know too much about the
25 lawsuit, that's okay. Mr. Postel, are you not aware that a

1 motion had been made and cross-motions had been made in
2 that suit?

3
4 A When?

5 Q After January 23rd, 1985. Wait a second. And,
6 that --

7 MR. STRAUS: Can we have an answer to the
8 first one?

9 A The only motion that I know that was made after
10 January of '85 was the motion in November of '85.

11 Q Fine. In the motion made in November of '85, wasn't
12 there alluded to the fact that in opposition to my motion
13 Damato and Lynch had raised the issue of the Gammernan
14 order which stopped me from making any motions in that
15 case according to them and that Judge Leonard Cohen --

16 MR. STRAUS: At this point, that's two
17 questions. We're going to the second question.

18 Q Doesn't it allude in those papers that Judge
19 Cohen overruled or disregarded Judge Gammernan's order?

20 MR. STRAUS: Objection, it's irrelevant.

21 THE REFEREE: Overruled.

22 Q If you know or don't know, fine.

23 A I know the argument was made by Mr. Butler. I
24 don't remember seeing Judge Cohen's order so I can't answer
25 the second part of the question.

Q Mr. Postel, I show you CPLR 321, and --

THE REFEREE: That's "W" for identification, Respondent's "W."

MR. SASSOWER: Actually it's the McKinney supplement which is the only sections involved, is 321a and b and it has the -- it's Page 286 and Page 287 and doesn't it say that there is only two ways that an attorney can be substituted?

Q One is by a stipulation and two is by an order of the court, no other way.

Does it not in sum and substance say that?
Yes or no.

By the way, in that question --

THE REFEREE: Wait, let him answer.

MR. SASSOWER: I'm excluding subdivision c if the attorney dies or becomes disabled, under a and b.

A That's what it says.

MR. SASSOWER: May we mark that in evidence?

MR. STRAUS: I think the Court can take judicial notice of that in evidence.

I think the Court can take judicial notice of any of the rules.

Q Did you see this at any time between July 1985 and today?

A I don't recall.

Q Were you familiar with how one becomes the attorney of record when he's substituted or subsequently retained?

A Yes, I'm familiar with those rules.

Q Would you agree with 321 and the commentary by Judge McLoughlin that there is only two ways --

A I didn't read Judge McLoughlins' commentary.

Q Why don't you read Judge McLoughlins' commentary?

A He says the change will usually have to be made by court order. This was a little unusual.

Q By court order, okay.

Judge McLoughlin, before and after he became a federal judge, was he an authority on practice, as far as you were concerned?

A He knows probably more about it than I do.

Q Do you consider, sir, -- well -- did you read from -- did you read between July 15 and today the case of Glen Mark G-L-E-N M-A-R-K, Incorporated against C-A-R-R-I-T-Y, 22 Appellate Division 2nd, 681, 253, New York Sup 2nd 481, Appellate Division, First Department?

Just tell me if you read it at any time, even before July 15?

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A I don't ever recall reading this case.

Q Have you ever read, which has always been, I think the leading case on the subject?

MR. STRAUS: Objection to your remarks, Mr. Sassower.

Q Are you familiar with the case if Kitsch K-I-T-S-C-H v. R-I-K-E-R 23 A.D. 2nd 502, 256, Supp 2nd, 536, Second Department?

A I don't recall. I may have read it in law school.

Q It's a very short decision and I ask you if you agree with this opinion.

MR. STRAUS: Objection.

MR. SASSOWER: If he agrees with it?

MR. STRAUS: I object.

MR. SASSOWER: I'm asking if he agrees with it.

MR. STRAUS: I object as to this witness --

THE REFEREE: Sustained. Whether or not he agrees, doesn't add anything to the case.

Q Well, do you agree, sir, that New York Jurisprudence is a recognized authority in this state?

A Yes, I'll agree with that.

Q And did you read that book on substitution of

attorneys?

A When?

Q At any time?

A I don't recall.

Q You don't recall?

A No.

Q And did you ever read any case, before we even get to that -- did you ever read any case or any authority in New York which states and we're leaving aside when an attorney dies or becomes disabled, leaving that particular situation, subdivision c aside, have you ever --

MR. STRAUS: Excuse me, your Honor, I believe that that subdivision applies if we're talking about several court orders which disqualified, barred, enjoined or prevented Mr. Sassower from appearing and I further object to this entire line of questioning.

This witness cannot testify as to the validity of the court order disqualifying Mr. Sasssower.

MR. SASSOWER: I'm not asking him about that.

MR. STRAUS: You are asking him about substitution. We have not offered him as an expert on substitution.

1
2 MR. SASSOWER: No, no, no. I'm not talking,
3 I'm not talking --

4 MR. STRAUS: I object to the line of quest-
5 ioning.

6 THE REFEREE: It's not what you are not talk-
7 ing --

8 What is your specific question?

9 Q Insofar as cases concerning, not concerning
10 Exhibit 2 and Exhibit 3, leaving those two aside for a
11 moment, on other cases where I was the attorney of record --

12 MR. STRAUS: If your Honor pleases, I'm
13 going to object at this point.

14 There is no testimony in this record that
15 Mr. Sassower is the attorney of record on any
16 of these cases.

17 If Mr. Sassower wants to testify to the
18 fact that he believes he was the attorney of record,
19 he may do so, but this witness has not testified
20 to that in any extent.

21 He keeps asking the question assuming a
22 fact that's not in evidence.

23 THE REFEREE: The witness testified on
24 cross-examination that he was aware of the fact
25 that Mr. Sassower represented Mr. Raffo and that

he was the attorney of record.

Now, on what cases, at least it was the two cases that were contained in Judge Sinclair's order.

MR. SASSOWER: Mr. Schneider testifying yesterday and with Judge Gammerman's order in front of him stated that action 3 through 10 I was the attorney of record and in Action 2 did not because it did not involve his firm.

MR. STRAUS: Objection.

THE REFEREE: Sustained as to any gratuitous --

MR. SASSOWER: I'm asking him if he agrees with that statement.

THE REFEREE: Go ahead, Counselor.
I don't know what you're referring to in Actions 3 through 10.

MR. SASSOWER: Can I have Judge Gammerman's order, please?

(Handed to counsel)

MR. SASSOWER: It's the second one.

THE REFEREE: That's Petitioner's Exhibit 8.

MR. SASSOWER: Yes, your Honor.

Mr. Schneider testified that I was the attorney

of record on Actions 3 to 10 and could not testify as to Action 2.

MR. STRAUS: Objection to Mr. Sassower's--

Q Do you agree with that?

MR. STRAUS: Mr. Sassower can ask the witness if he agrees with something or not but not in the form of what another witness testified to.

THE REFEREE: Sustained.

Q Do you agree that Action 2 to 10 I was the attorney of record?

MR. STRAUS: At what point?

Q On July 15. On July --on July 14, 1985.

A I would disagree with that statement.

Q Do you have your files which would show who the attorney of record was?

MR. STRAUS: Objection. He's not testified that he has any files showing it.

MR. SASSOWER: He has six boxes.

MR. STRAUS: He hasn't testified that any of them show the attorney of record other than himself.

Q Mr. Postel, when you were retained by Mr. Raffae on July 15, 1985 --

MR. SASSOWER: Withdrawn.

Q Mr. Postel, did you make a motion or cross-motion that you submitted to Judge Lester Evans which requested that you be substituted for George Sassower as the attorney of record and that motion was returnable December 30, 1985?

Did you make such a cross-motion?

A I did.

Q Did Judge Lester Evans grant your motion, cross-motion?

A He has not decided that motion yet.

THE REFEREE: I didn't hear the answer.

THE WITNESS: He has not decided that motion, to my knowledge.

Q To your knowledge, to your knowledge?

A Do you have a copy of that decision?

Q Sure, denying all cross-motions including yours.

A I haven't seen such a motion.

Q And that was decided, for your benefit, on January 15, 198--

MR. STRAUS: Object to Mr. Sassower testifying.

THE REFEREE: Sustained.

MR. SASSOWER: Fine, all right. You haven't seen it.

1
2 Q Mr. Postel --

3 THE REFEREE: Mr. Sassower, do you have
4 a copy of that decision here?

5 MR. SASSOWER: I don't have a copy of it
6 here. I have the companion decision.

7 THE REFEREE: You asked a question whether
8 or not this witness was familiar with Judge Evans'
9 decision, and his answer was, as far as he knows
10 that question has not as yet been resolved.

11 MR. SASSOWER: Okay.

12 THE REFEREE: You say it was.

13 MR. SASSOWER: I represent to the Court that
14 it was.

15 THE REFEREE: Let's see it.

16 MR. SASSOWER: Let me try to find it.

17 THE REFEREE: This was as to the attorney
18 of record in what specific cases or all cases?

19 MR. SASSOWER: Just on Puccini, the first
20 one.

21 THE WITNESS: I believe the cross-motion
22 was for that and all other cases involved with
23 Puccini.

24 Q It wasn't granted.

25 A It hasn't been denied, Mr. Sassower.

1
2 Q All right. You say so. Tell me, Mr. Postel,
3 has it been granted?

4 A To my knowledge there's been no decision on the
5 motion.

6 Q To your knowledge. All right. We'll come to it.
7 I show you this document and ask you --

8 THE REFEREE: Let's identify it first.
9 That will be Defendant's Exhibit X for identifi-
10 cation.

11 Is that the decision of Judge Evans?

12 MR. SASSOWER: E-V-A-N-S.

13 THE REFEREE: Is that the decision you're
14 talking about?

15 MR. SASSOWER: No. That's the motion that
16 he made, on the same case.

17 THE REFEREE: Judge Lester Evans.

18 MR. SASSOWER: Lester Evans.

19 THE REFEREE: That's the motion.

20 MR. SASSOWER: That's the motion.

21 MR. STRAUS: Do you want that marked, Judge
22 Potoker?

23 THE REFEREE: Yes, we may as well mark it.

24 MR. SASSOWER: For identification only.

25 (Received, so marked)

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Q Is that the motion you made to Judge Lester Evans?

4

A Yes.

5

6

Q Let me ask you something, Mr. Postel, who typed up those motion papers?

7

A I know I didn't type them up.

8

Q You did not.

9

A Not personally.

10

Q What office typed up those motion papers?

11

12

A They may have been typed at the office of Feltman, Karesh and Major.

13

14

15

Q And may it be possible, sir, and is it not a fact that Feltman, Karesh and Major mailed out those motion papers using your back, using your name?

16

A Yes, because --

17

Q No, no --

18

19

A Mr. Sassower, you asked me a question. I'll give you an answer.

20

21

MR. STRAUS: He was answering the question and he was cut off by Mr. Sassower.

22

THE REFEREE: All right.

23

24

25

A Mr. Schneider did a favor to me because when these papers were mailed out I was in Florida. They were prepared, signed by my client and Mr. Schneider, since I was going

1
2 to be away, Mr. Schneider, I asked him if he would take
3 care of mailing them out so they would get served and my
4 secretary was not working at that time and I was going
5 away.

6 Q And they took -- may I see the back, sir?

7 They just took a back and printed -- your
8 signature is no place on there.

9 A I prepared that back myself.

10 Q And they mailed it and they submitted it to the
11 court, is that correct?

12 A That's correct.

13 Q Let's go back to the beginning.

14 By the way, this is not the only paper and docu-
15 ment where they have used your name and submitted papers as
16 if you had submitted them.

17 A Nobody --

18 MR. STRAUS: Object to the relevance of
19 this.

20 MR. SASSOWER: Of course I'll show the rele-
21 vance.

22 A Nobody uses my name, Mr. Sassower, without my
23 consent or authorization.

24 MR. STRAUS: Judge, what is the relevance
25 of the line of questioning?

MR. SASSOWER: I'm going to bring it up, okay.

THE REFEREE: Bring it up now.

MR. SASSOWER: All right, I'll go chronologically.

MR. STRAUS: If your Honor pleases, he's going to go -- he may go for three years but can we get the purpose of it?

THE REFEREE: He won't go three years because at sometime I'm going to retire.

Q Mr. Postel, let's talk about July 15.

THE REFEREE: What about Judge Evans' order?

MR. SASSOWER: We'll come to it, but chronologically --

Q Mr. Postel, July 15, you were retained by Mr. Raffe. Did you send a letter to Mr. Sassower saying "I now represent Mr. Raffe" -- yes or no?

A You were in the room and you knew I was being retained.

Q Don't tell me --

A You were there, Mr. Sassower. No, I did not write you a letter.

Q Okay.

THE REFEREE: You say Mr. Sassower was there.

1
2 You were there and Mr. Raffe was there.

3 Q And what --

4 THE REFEREE: Wait a minute. Mr. Raffe was
5 there.

6 THE WITNESS: If you want the chain of events -

7 THE REFEREE: Yes.

8 THE WITNESS: When I arrived at the office,
9 Mr. Raffe's office upstairs, as I was walking up-
10 stairs, Mr. Sassower was walking upstairs, greet-
11 ed me.

12 We chatted for a few minutes. He was glad
13 that I was going to represent --

14 MR. SASSOWER: Just what I said.

15 THE WITNESS: I'm telling you what you said.

16 MR. SASSOWER: Okay.

17 THE WITNESS: Okay. You said that you were
18 glad.

19 THE REFEREE: This is what Sassower told
20 you?

21 THE WITNESS: That he was glad that I was
22 going to be representing Mr. Raffe because
23 as he put it, he had very fond memories of my
24 father and appeared before my father on many oc-
25 casions and also knew that I was friendly with

other members of his family and he thought
Mr. Raffe was going to be in good hands.

Q I said that?

A Yes.

Q And after I gave you these amenities --

MR. STRAUS: Object to the characteriza-
tion.

MR. SASSOWER: All right, okay.

Q Tell us what happened between you and Mr. Raffe
insofar as my presence, what you said and what he said?

A We discussed --

Q Just tell me what was said.

MR. STRAUS: He's answering your question,
Mr. Sassower.

A We discussed Justice Klein's contempt order.

Q What was said?

A If you'd let me answer, Mr. Sassower, I'll try.

I remember you quoting several cases which
names I don't recall, which you said made the order un-
constitutional, that you couldn't be convicted for a
criminal contempt because a criminal contempt was a
crime without a trial and there was no trial here and that
you thought that the contempt order was unconstitutional
and infirmed. I think that was one of the words Mr.

1
2 Sassower used. And we discussed what steps, what was
3 going to take place next.

4 You had told me, I think, at that time, Mr.
5 Polur is trying to get himself arrested.

6 Q That's right.

7 MR. STRAUS: Just a minute.

8 MR. SASSOWER: I apologize.

9 THE REFEREE: Strike it.

10 A In fact, I believe while I was there he may have
11 been arrested. That may have been the day. I recall
12 our discussing it.

13 I recall you saying that you wanted to be arrested
14 also, that you thought that they couldn't pick and choose
15 as to who they could enforce the order against and that
16 you wanted to bring that before the court and that was one
17 of the reasons why Mr. Polur was co-counsel at times with
18 Mr. Sassower in some of this litigation.

19 Q Could you spell his name for the record?

20 A P O L U R, Sam Polur.

21 We discussed -- you were coming in and out at
22 that time, as I remember, so, I don't know what parts of
23 the conversation you were present to and what parts you
24 weren't present to and we discussed ending this because
25 Mr. Raffo didn't want to go to jail, and you were going

1
2 to test it out by a habeas corpus proceeding and that
3 you were going to make motions and Mr. Raffe wanted me
4 and retained me to represent him in that matter and
5 in all the other Puccini related matters and you knew that.

6 Q And, what --

7 THE REFEREE: How did he know that?

8 THE WITNESS: Because he was there.

9 THE REFEREE: When was --

10 THE WITNESS: When we had the discussions.

11 THE REFEREE: Was it Mr. Raffe who told
12 you and Mr. Sassower was present that he wanted
13 you to take over and represent him in those cases?

14 THE WITNESS: I believe so. Mr. Raffe told
15 me and discussed the fact that he wanted, that he
16 had told Mr. Sassower to stop a long time ago.

17 He didn't even know about the lawsuits which
18 were started which resulted in Justice Klein's
19 order.

20 I don't know when you were in the room and
21 when you were out of the room.

22 Q Okay. Now, Mr. Postel, between July 15 and let's
23 say July 31st, were you aware that there were motions and
24 proceedings taking place where I was the attorney of record?
25 Yes or no.

1
2 A Which motions and which proceedings?

3 Q Anything, between -- that there were motions
4 made in a number of cases?

5 MR. STRAUS: Is that purported to be the
6 attorney of record or was the attorney of record?

7 MR. SASSOWER: As the attorney of record.

8 A I don't know what motions you're referring to.
9 The only motions I remember being made --

10 Q Wait.

11 A You asked a question, let me answer it.

12 Were various habeas corpus proceedings on behalf
13 of Mr. Polur and on behalf of yourself.

14 I assume you must have been trying to represent
15 Mr. Raffé at that time, but, at that time Mr. Raffé wasn't
16 in jail so I don't know how --

17 Q Wait a second, weren't you in court, for example,
18 before Judge Mary Johnson, although --

19 A Yes.

20 Q Wait a second -- which I think was around the
21 1st, the second of August or the 3rd of August, the first
22 few days in August?

23 A I think it was in July but I'm not sure.

24 Q And, was there a proceeding in federal court on
25 a federal writ of habeas corpus to declare these three

convictions unconstitutional and Hyamn Raffe was one of the petitioners, yes or no?

A Yes.

Q At any time during that proceeding did anybody ever say, including yourself, "No, Mr. Sassower does not represent Mr. Raffe." Yes or no.

A No.

Q Before Mr. Justice Klein --

THE REFEREE: Were you aware of the fact that there was a writ of habeas corpus being sought from --

THE WITNESS: I was present.

THE REFEREE: You were present, all right.

Q Before Mr. Justice Klein on July 29 or 30, taking an approximate date, wasn't there an extensive argument by me before Mr. Justice Klein?

Were you present where I said, "With all the infirmities in the order" and didn't that application to vacate Judge Klein's order before Judge Klein, wasn't that on behalf of myself, Sam Polur and Hyman Raffe, saying all these three convictions were a nullity? Yes or no.

A I believe your application before Justice Klein was on behalf of yourself and Mr. Polur at that time.

Q Well, didn't I say in those -- let's refresh

refresh our recollections.

MR. STRAUS: Objection. He didn't indicate that he had any trouble remembering.

Q Let me put it this way, at any point, did anybody say during extensive argument I did not represent Hyman Raffe?

A No, I don't think the question came up.

Q Okay. Let me go a step further. Was I, before Judge Sullivan that you knew of --

THE REFEREE: He'll stay before Judge Klein.

MR. SASSOWER: I finished.

THE REFEREE: I want it clarified. You were there. Did Mr. Sassower inform the court that he was also representing, that, in addition to representing himself and Mr. Plur, that he was also speaking on behalf of Mr. Raffe?

THE WITNESS: I don't recall that argument going that way.

As I recall it, it was on behalf of Mr. Sassower because Mr. Sassower had been in jail and had been released on order of Justice DeFede and this was on a writ of habeas corpus and this, I believe was the argument before Judge Klein on the writ signed by Justice DeFede and Justice

1
2 Klein returned Mr. Sassower to jail. That was
3 the purpose of the proceeding before Justice
4 Klein, as I recall it.

5 Q Were you aware that I was on two days before
6 Mr. Justice Sullivan in the Appellate Division, First De-
7 partment, on papers, on written papers, on two matters and
8 in both cases I represented that I represented Hyman Raffe?

9 A I was not there.

10 Q You were not there but were you given copies of
11 the papers?

12 A After the fact.

13 Q Right, and after the fact, did you write to
14 George Sassower and say you are not the attorney on this
15 case?

16 A No, I did not.

17 Q Now let's go to the papers that were presented.

18 In one case which was a writ of prohibition
19 against Judge Klein, Hyman Raffe against George Sassower --
20 by the way, did you read those papers?

21 A No.

22 Q You didn't read them?

23 A If I did, I don't remember. There are so many
24 papers in this thing, Mr. Sassower, it's almost impossible
25 to read them all.

1
2 Q In my writ of prohibition on behalf of Hyman
3 Raffe, I stated that Hyman Raffe had been vindicated
4 at least four times and possibly six times of criminal
5 contempt and here Judge Klein disregards --

6 MR. STRAUS: Objection. This is not a
7 question. This is a speech.

8 THE REFEREE: Sustained.

9 Q Did I represent in those papers Hyman Raffe?

10 A I don't recall. I don't remember reading the
11 papers.

12 Q In the other matters before Judge Klein did I
13 represent in the papers that I represented --

14 MR. STRAUS: Your Honor, at this point,
15 I object on these grounds, the question whether
16 Mr. Sassower represented himself to be an at-
17 torney for Mr. Raffe or whether he purported to be
18 the attorney for Mr. Raffe does not, in fact,
19 or will not resolve the question as to whether
20 or not he was permitted to be the attorney for
21 Mr. Raffe.

22 These are his representations which may very
23 well be in the paper but the issue for you to
24 resolve is --

25 THE REFEREE: The Grievance Committee is

1
2 also contending that he did act, purportedly
3 acted for Mr. Raffe although he was discharged
4 as attorney.

5 MR. STRAUS: Yes. He says he's represent-
6 ing himself to be the attorney for Mr. Raffe.

7 My position, to make it clear, is the
8 orders disqualifying, enjoining him and restrain-
9 ing him are a matter of record.

10 Whatever the cases are that has to be
11 compared against whatever proceedings Mr. Sassower
12 was proceeding in and it doesn't change the facts
13 whatever Mr. Sassower says about the events
14 after the fact, at the fact or prior to the fact.

15 MR. SASSOWER: Wait a second, are you finish-
16 ed?

17 I don't understand you. I would like to
18 see one letter, okay?

19 THE REFEREE: Sir, that's up to them. If the
20 evidence is not there, it's not there.

21 MR. SASSOWER: Okay.

22 Q Now, on July 31st -- wait a second -- may I see
23 that letter of July 31st?

24 A I don't have it.

25 THE REFEREE: Which letter?

1
2 MR. STRAUS: The letter that's marked for
3 identification.

4 MR. SASSOWER: Right.

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

6 MR. STRAUS: It's 38.

7 MR. SASSOWER: Have you got a copy of it?

8 THE REFEREE: It's a letter from Mr. Raffe
9 to Mr. Sassower dated July 31, 1985.

10 It's for identification only. It has not
11 been received.

12 MR. STRAUS: That's correct.

13 MR. SASSOWER: I'll read part of it.

14 THE REFEREE: How are you going to read it?
15 It's not in evidence.

16 MR. STRAUS: I have no objection to his
17 reading the letter.

18 THE REFEREE: For what purpose?

19 MR. SASSOWER: You'll see the purpose in a
20 moment.

21 THE REFEREE: Tell me in advance, for what
22 purpose?

23 MR. SASSOWER: The first question will tell
24 you.

25 Q On July 31st -- by the way, when did you dictate

1
2 this letter?

3 A I would assume it was prepared and dictated the
4 same date.

5 Q July 31st.

6 A Yes.

7 Q Do you know where I was on July 31st?

8 A You were in jail.

9 Q I was in jail, and -- so you dictated a letter
10 to be sent to me.

11 Now was it to be sent to me in jail or was it
12 sent to me at 2125?

13 A It was my understanding that --

14 Q No, no.

15 MR. STRAUS: Will you allow him to answer?

16 THE REFEREE: Mr. Sassower the letter is
17 addressed to you at 2125 Mill Avenue.

18 Q So this letter --

19 MR. STRAUS: Your Honor, I think the witness
20 was responding to a question, and --

21 THE REFEREE: I don't know what the question
22 is.

23 MR. SASSOWER: The question is that --

24 MR. STRAUS: The question was asked and the
25 witness was in the midst of answering it. Can

1
2 we have --

3 THE REFEREE: The Court Reporter will
4 please read the question back and I'll permit
5 the witness to answer it. Let him answer it.

6 (Question repeated)

7 A The letter would be given, placed on your desk.
8 I also believe that a copy was given to your daughter who
9 took it to you but maybe I'm wrong, who was supposed to
10 deliver it to you when she came to see you while you were
11 in jail.

12 Maybe I'm wrong but that was my understanding but
13 it was to go to both places.

14 Q Who gave you that understanding that you would
15 give it to my daughter?

16 A I discussed it with Mr. Raffe.

17 Q But you don't know whether it was given to my
18 daughter.

19 A I believe it was but you will have to ask Mr.
20 Raffe when he testifies.

21 Q So that if my daughter did not get a copy of
22 this letter -- by the way, my daughter did not live at
23 2125.

24 A But she came to the office to pick up your mail.

25 Q She lived in Israel.

1
2 A She was in New York at the time, Mr. Sassower.

3 Q I realize she was in New York for a while, living
4 in White Plains.

5 MR. STRAUS: Is this a question?

6 THE REFEREE: He said he addressed it to 2125
7 with a copy of the letter given to your daughter.

8 MR. SASSOWER: As far as he knows, this is
9 hearsay, rank hearsay.

10 THE REFEREE: Go ahead.

11 Q Mr. Postel, is there anything in the letter of
12 July 31st, 1985, that says, one, "You were discharged on
13 July 15" or thereabouts?

14 MR. STRAUS: Your Honor, I think it's
15 appropriate at this time to offer that letter
16 in evidence if he is going to ask for the contents
17 of it which he's absolutely doing at this point.

18 THE REFEREE: Do you want this letter in evi-
19 dence?

20 MR. SASSOWER: With the understanding, your
21 Honor, that I do not recall ever seeing this let-
22 ter until I requested Mr. Straus to send it to me.

23 THE REFEREE: All right. We'll wait for Mr.
24 Raffe to testify as to when --

25 MR. STRAUS: I would move its admission into

evidence in view of the questions and answers.

MR. SASSOWER: With that understanding, without conceding that it was ever served upon me.

MR. STRAUS: If you are going to ask about a letter --

THE REFEREE: The witness already answered. He said it was sent to you at 2125 Mill Road.

MR. SASSOWER: Okay.

THE REFEREE: With a copy to your daughter.

MR. SASSOWER: No, he said he thinks.

THE REFEREE: Who gave a copy to his daughter?

THE WITNESS: I believe it was given to, I believe it was given to her when she came to the office to pick up Mr. Sassower's mail.

THE REFEREE: That was still in the same building?

THE WITNESS: At 2125 Mill Avenue.

THE REFEREE: Where Mr. Raffo had his office?

THE WITNESS: Yes.

Q Mr. Postel, wouldn't it have been an easy thing --

MR. STRAUS: May I renew my application that that be received in evidence in view of the testi-

1
2 mony?

3 MR. SASSOWER: Over objection.

4 THE REFEREE: All right, it will be received
5 as Respondent's Exhibit Y.

6 MR. SASSOWER: Over objection. There are
7 too many qualifications to the letter.

8 THE REFEREE: You asked the question.

9 Q Let me ask you a question.

10 THE REFEREE: We'll hold it up at this
11 time unless it's warranted by further question-
12 ing by Mr. Sassower.

13 Q Now, you dictated -- did you bring -- did Mr.
14 Raffe tell you that he informed me not to file anymore
15 lawsuits in January of 1985?

16 A Yes.

17 Q And did he tell you this in writing or orally?

18 A Orally.

19 Q Was that by --

20 THE REFEREE: Mr. Sassower, we have a letter
21 purportedly signed by Mr. Raffe which states that
22 "George, more than six months ago" --

23 MR. SASSOWER: Which is untrue.

24 MR. STRAUS: Mr. Sassower --

25 THE REFEREE: "I told you not to commence

any further litigations in my name for any purpose with reference to Puccini Clothes."

MR. SASSOWER: This was dictated by Mr. Postel.

THE REFEREE: It doesn't make any difference.

MR. SASSOWER: It does make a difference because there are too many clients who sign whatever an attorney states.

THE REFEREE: Again you're making a speech.

MR. SASSOWER: Fine.

Q Mr. Postel, wasn't this letter made up so that you could go to Judge Klein and tell him Mr. Raffé knew nothing about it?

A No.

Q Was this letter made up after you had a discussion with Mr. Schneider?

MR. STRAUS: Made up?

MR. SASSOWER: Dictated.

A When? Before July 31st?

Q In conjunction with July 31st.

A This letter was never dictated or prepared in connection with any direct conversation with Mr. Schneider or Mr. Relkin.

Q Was it prepared after discussions with Mr. Schneider

1
2 and Mr. and Mr. Relkin?

3 A Yes, because I have had many discussions with
4 Mr. Schneider and Mr. Relkin.

5 MR. STRAUS: Your Honor, at this point,
6 I would ask that this letter be received in evi-
7 dence as Petitioner's Exhibit 38 in view of
8 the lengthy discussions.

9 It's been treated as though it's in evidence.

10 Questions have all been asked about the con-
11 tents.

12 It's not in evidence at this point, and I
13 believe that it should be and Mr. Sassower is
14 probably --

15 THE REFEREE: We'll wait for Mr. Raffe to
16 verify this as this being his letter and that is
17 his signature on it.

18 Q Mr. Postel, did you at any point look at your pap-
19 ers and see whether any litigation was started in the name
20 of Mr. Raffe after January 1985, which contains his signa-
21 ure?

22 A Which contains his signature?

23 Q Yes.

24 A I didn't see --

25 Q Yes or no.

MR. STRAUS: He's answering a question, Mr. Sassower.

Q Mr. Postel, don't you think that --

MR. STRAUS: Your Honor, may we have the answer to the question?

MR. ^{Sassower} STRAUS: Your Honor, may we have his files here and we'll show, your Honor, he knew that Mr. Postel knew that when he dictated this letter, it was false.

MR. STRAUS: You are testifying.

MR. SASSOWER: Let him bring his files in and I'll show you my testimony is true. This is fabricated.

THE REFEREE: Mr. Sassower, you are starting all over again.

MR. SASSOWER: I don't like a man coming here naked.

THE REFEREE: No speeches. Do you have any more questions of this witness?

MR. SASSOWER: Plenty of time.

THE REFEREE: Or I'll excuse him.

MR. STRAUS: I'd like him to come back Tuesday.

THE REFEREE: It's now eighteen minutes after

three. Do you have any more questions of him?

MR. SASSOWER: Yes.

THE REFEREE: Let's go, ask questions without speeches.

MR. SASSOWER: First of all --

THE REFEREE: No.

MR. SASSOWER: The first request that I am going to make is that he come back on Tuesday or Thursday with his six boxes full. I don't need six boxes. All I need, all the papers that I sent out or the other side sent out which has my name on it, that I have a copy of.

All you need is a little manila envelope, the time records, the agreement.

MR. STRAUS: If your Honor please, is this an application?

THE REFEREE: He produces a copy of a letter which was sent to you and you deny it.

MR. SASSOWER: I deny that I received it except from Mr. Straus.

MR. STRAUS: If your Honor please, if this witness will be allowed to testify, there is no reason to bring him back.

MR. SASSOWER: Of course there is. I want,

1
2 I want to see his document because his documents
3 will show that he is perjurious on his testimony.

4 THE REFEREE: Mr. Sassower --

5 MR. SASSOWER: I want documents.

6 THE REFEREE: Mr. Sassower, you do not
7 have a permit to make speeches here.

8 MR. SASSOWER: I do not, I realize that.

9 THE REFEREE: Do you have any more questions
10 of this witness?

11 MR. SASSOWER: Yes.

12 THE REFEREE: He's a busy practitioner.
13 Let him get on with his practice.

14 MR. SASSOWER: Yes, but as far as I'm concern-
15 ed, whenever we finish today I'm not finished
16 because I have documents.

17 THE REFEREE: We'll wait for that moment.

18 Q Mr. Postel, when I got out of jail --

19 THE REFEREE: He doesn't know when you got
20 out of jail.

21 Do you know when he got out?

22 THE WITNESS: Exactly, no.

23 Q I didn't ask you for exact.

24 A The judge asked me.

25 Q You said not the exact date.

THE REFEREE: So he didn't know when you got out of jail. Your question was "When I got out of jail." The date he didn't know.

Q Do you know the approximate date?

A I think it was around the 14th of August. Maybe I'm wrong.

Q That's fair enough.

THE REFEREE: July when?

THE WITNESS: August.

THE REFEREE: When?

THE WITNESS: Sometime in the middle of August.

Q Do you have in your file papers that were sent to you by Mr. Raffae, motions, appeals, whatever I have during that period of time, where you wrote to me and said --

MR. SASSOWER: Withdrawn.

Q Mr. Postel, did you on your stationery ever write me a letter, down to this date, a letter --

A I don't believe so.

Q -- saying, "Mr. Sassower, I was retained on July 15, and you were no longer the attorney," yes or no?

MR. STRAUS: Objection. Asked and answered. He's now repeating himself.

THE REFEREE: Yes or no.

THE WITNESS: I never wrote such a letter.

Q Mr. Postel, were you aware that the appeal from Judge Klein's order was argued by me on behalf of Mr. Raffae in September, 1985, as the attorney of record for Mr. Raffae? Yes or no.

A Yes, I'm aware of that. I'm also aware --

Q Wait.

A You asked a question.

MR. SASSOWER: He was aware.

THE REFEREE: You have to allow him to answer yes or no. Go ahead.

Q Mr. Postel, how much before September, whatever, it was the first week in September, as I recall, how much before the date of argument to invalidate Mr. Raffae's conviction did you know that matter was going to be at the Appellate Division?

A No recollection.

Q But you knew about it beforehand.

A I'm not sure if I knew about it before or after the fact. I know I wasn't there.

Q Are you sure you weren't there?

THE REFEREE: At the Appellate Division?

MR. SASSOWER: Yes.

THE WITNESS: I may have been there.

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Q Let me ask you this question.

MR. STRAUS: He's answering.

A Was this in September?

THE REFEREE: September '85, according to the question.

A I don't think I was there in the Appellate Division in September.

Q In all our conversations with Mr. Schneider and Mr. Gerstein, didn't they tell you that that appeal is going to be argued?

A They may have.

Q Now, at any point, at any point, prior to the argument of the appeal, did you call me up, tell me, write to me, "Mr. Raffe wrote to me," anybody saying "Mr. Sassower, don't argue this appeal on behalf of Mr. Raffe, I am his attorney," did you?

A I did not, no.

Q When did you find out, there was no question about it that you knew about it at some point, whether it was before or afterward, right?

A I probably did.

Q Okay. Would it shock you that during argument before the Appellate Division that neither Mr. Gerstein nor Mr. Schneider ever said, "Mr. Sassower does not represent

1
2 Mr. Raffe?"

3 MR. STRAUS: Objection. There is no testimony
4 to that other than Mr. Sassower.

5 MR. SASSOWER: I'm saying they never said it.

6 MR. STRAUS: That's right, you are saying it.

7 MR. SASSOWER: Fine.

8 Q When you found out, whether it was before or
9 afterward that I argued the appeal on Mr. Raffe's behalf,
10 did you ask Mr. Schneider if he mentioned the fact that I
11 did not represent Mr. Raffe?

12 MR. STRAUS: Objection, your Honor. This
13 is highly collateral.

14 THE REFEREE: Sustained.

15 MR. SASSOWER: Collateral? I'm showing
16 this is a fabrication.

17 MR. STRAUS: I don't know how you believe
18 that.

19 THE REFEREE: He says that in your presence
20 on a certain date in July you were there, Mr.
21 Postel was there, Mr. Raffe was there and you
22 weretold you are out and then we have a letter
23 here which alluded to --

24 MR. SASSOWER: It doesn't say I'm out in that
25 letter. It doesn't say I'm out.

1 THE REFEREE: In which Mr. Raffe is alleged
2 to have said, as I told you six months ago --

3 MR. SASSOWER: Okay. Now let me show you
4 something. Can I see that?

5 THE REFEREE: Sure, plus the court order.
6 That's what the Petitioner is relying on.

7 MR. STRAUS: Absolutely and Mr. Raffe will
8 testify to what's in the letter.

9 MR. SASSOWER: Fine.

10 THE REFEREE: Your contention is that under
11 the CPLR there has to be a court order or a
12 stipulation.

13 MR. SASSOWER: Right, no question about it.

14 THE REFEREE: So why belabor the point now?

15 Q Let me ask you something. You say you dictated
16 that.

17 A It's my recollection --

18 Q Does your name appear any place on that letter?

19 A No.

20 Q Is your initials as being the person dictating --

21 MR. STRAUS: Objection. This isn't even
22 in evidence.

23 I again move that it be received in evidence
24 in view of the questions that Mr. Sassower asks.
25

1 MR. SASSOWER: I say it's a fake.

2 MR. STRAUS: It should be received in evi-
3 dence.
4

5 MR. SASSOWER: As a fake.

6 MR. STRAUS: You can testify but you can't
7 do it on cross-examination.

8 MR. SASSOWER: No?

9 MR. STRAUS: No. You've been doing it but
10 you are not permitted to do it.

11 MR. SASSOWER: If your Honor wants to ac-
12 cept it as a fake, fine.

13 I'm sorry, your Honor, to send a letter to
14 me at 2125 Mill Avenue when I'm in jail, okay --

15 MR. STRAUS: May we have it received in evi-
16 dence?

17 THE REFEREE: It originally had been marked
18 People's Exhibit 38 for identification.

19 We'll now mark it in evidence, subject, of
20 course, to a motion by you to delete it after
21 Mr. -- or during Mr. Raffe's testimony.

22 MR. STRAUS: You will have to. Can we have
23 it marked in evidence?

24 THE REFEREE: We want to mark it by all
25 means.

1
2 MR. STRAUS: Here's the one marked for iden-
3 tification.

4 (Received, so marked)

5 MR. SASSOWER: Your Honor, may we have a
6 minute and a half?

7 THE REFEREE: Yes, go ahead. Mr. Sassower,
8 there is a member of the bar back here who I
9 haven't seen for a long time and he came in to
10 say hello to me.

11 (Short recess)

12 Q You have the record on appeal from, my brief
13 and appendix.

14 MR. STRAUS: Mr. Sassower, aren't we beat-
15 ing a dead horse at this point?

16 THE REFEREE: Do you have it? If you have
17 it, you have it.

18 MR. STRAUS: I think it's in evidence. The
19 brief is Exhibit 16.

20 THE REFEREE: It's 16, Respondent's brief,
21 Appellate Division. No objection by Mr. Sassower.

22 Q I show you --

23 THE REFEREE: Is that it, Petitioner's 16?

24 MR. SASSOWER: Yes, your Honor.

25 Q I show you a brief and appendix dated July 15,

1
2 1985, which was supposedly the day that you were retained,
3 and could I ask you when for the first time you received a
4 copy of it?

5 A I can't tell you that. I have no recollection of
6 when I received a copy.

7 Q Did you receive a copy of it?

8 A I think I did.

9 Q Wasn't it, as I learned, the practice of Mr.
10 Raffé to send you a photostatic copy or a copy of every-
11 thing that he received in the matter?

12 A That only started, Mr. Sassower, in around Novem-
13 ber when you started your latest barrage of motions.

14 Q Just tell us the date. You mean he wasn't
15 sending stuff to you before?

16 A Not everything that came into him did he send to
17 me at that time.

18 Q Let me ask you something, Mr. Postel.

19 A Because at that time not much was coming in.

20 Q Mr. Postel, you only know what was being sent
21 to you, is that right?

22 A I can only know what's given to me.

23 Q Did you know that things were coming in which were
24 not being sent to you?

25 A It's -- I think everything that came in was

1
2 eventually sent to me.

3 Q A motion, did you know what the office practice
4 was in about that period, who used to get the mail in the
5 morning?

6 A I still don't.

7 Q When you got something, Mr. Postel, do you mark it
8 when you get it?

9 A No.

10 Q Do you time sheet it?

11 A No.

12 Q For example, if you would read a brief and it
13 took you an hour to read it and a couple of hours to check
14 on the research, would you include that in your time re-
15 cords?

16 MR. STRAUS: Objection. What is this perti-
17 nent to?

18 MR. SASSOWER: Fine. I'll tell you, your
19 Honor, that this brief and appendix is dated
20 July 15, 1985, and from July -- and I'm the at-
21 torney for Mr. Raffe as well as everybody else
22 and at no time, according to this gentleman's
23 testimony, did he ever say to the court that I
24 am not the attorney, July, August, September.

25 MR. STRAUS: He's testified to that six

times, so what's the point?

He's already testified to that. That's a document which is in evidence.

THE REFEREE: He said, number one, that Mr. Raffe told you that he didn't want you to represent him any longer.

MR. SASSOWER: I'm saying it's a lie.

THE REFEREE: Number 2, that on July 15, the three of you met at 2125 Mill Avenue.

MR. SASSOWER: I'm saying that's a lie and I'm trying to prove that it's a lie.

THE REFEREE: And, number 3, that on July 31, 1985, Mr. Raffe sent you a letter in which he called to your attention the fact that six months ago he told you not to commence any further litigation in his name.

MR. STRAUS: I respectfully submit this does not in any way discredit that.

MR. SASSOWER: Please, Mr. Straus.

MR. STRAUS: I made an objection, Mr. Sassower, I made an objection to this line of questioning because it is not leading anyplace. It is not pertinent to anything the witness testified to.

MR. SASSOWER: I'm saying that if had 20

documents in his possession which said George Sassower is the attorney and he knew twenty times that I went to court --

THE REFEREE: That's an argument, sir.

MR. SASSOWER: I'm going to show that he knew all along that I was representing Mr. Raffé. He said nothing about it and this is a newly contrived concoction.

THE REFEREE: Sir --

MR. SASSOWER: It's perjurious and you want to see it's perjurious, let him bring his records and you will see it's perjurious and that's why he kept his records in his office at Mr. Straus' direction.

MR. STRAUS: You don't have any business saying that.

THE REFEREE: Please, Mr. Sassower, that's not going to help you at all. We're interested in evidence.

MR. SASSOWER: Fine.

THE REFEREE: That's not evidence.

MR. SASSOWER: His records will show that he's lying.

THE REFEREE: I don't know of any records.

MR. SASSOWER: I'm going still further.

I'm saying, and let the record -- I am saying that this man knew all along that unless there is a substitution or an order, it's a nullity.

THE REFEREE: Sir --

MR. SASSOWER: And he knows it. He's perpetrating a fraud upon the court.

THE REFEREE: Let's assume he knows it, so what?

MR. SASSOWER: So what?

THE REFEREE: Yes.

MR. SASSOWER: Then we'll go the next point.

Okay.

THE REFEREE: I'll have to make the ultimate decision.

MR. SASSOWER: No, as to whether he knows it is in his papers, that is, knows it. That's why he hasn't brought his papers.

THE REFEREE: Mr. Sassower, any time you want to take the stand and testify under oath, I'll permit you to do so, but do not characterize the testimony of any witness.

MR. SASSOWER: I'll get his papers and I'll show it to your Honor.

our Honor please, we

asked Mr. Straus --

t shout in my ear, sir.

it, stand in the corner, not

' play fast and loose by

Sassower, I made a mis-

ou to remove your jacket.

with your jacket on, you

are playing fast and

's what you've been saying.

olutely.

ight.

like to see your Honor

eal papers.

u have any more cross-

hear a question. I haven't

ty-five minutes.

1
2 Q Mr. Postel, January 3rd, the -- January 23rd, you
3 first spoke to Mr. Raffe.

4 A No.

5 Q Mr. Gordon.

6 A No.

7 Q When did you first speak to Mr. Raffe.

8 A It would have been the week after the July 4th
9 holiday.

10 Q That will be all indicated in your papers, wouldn't
11 it?

12 MR. STRAUS: Objection. What are you refer-
13 ring to?

14 THE REFEREE: Sustained. It has nothing to
15 do with his papers.

16 He asked him a question of when he spoke to
17 Mr. Raffe for the first time.

18 He said the week of July 4th.

19 Q How long before, how many conversations did you
20 have with him before July 15?

21 A Mr. Raffe?

22 Q Yes.

23 A Maybe two.

24 Q And you knew Mr. Raffee knew a lot of attorneys
25 or some attorneys besides yourself.

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A No.

Q Mr. Postel, didn't you tell Mr. Raffe that through your father you knew Judge Klein and Judge Riccobono very well?

A No.

Q Didn't you tell me that you knew Judge Klein and Judge Riccobono very well, yes or no?

THE REFEREE: Wait until he answers.

A I know Judge Klein and I happen to know Judge Riccobono.

Q And you know them a long time.

A Yes, I know them a long time. They are social friends of my parents. I've met them on social engagements with my parents.

Q There's nothing wrong with that.

A I know there isn't.

Q Let's go to the next step.

When I told you to -- this is your remark -- you said in August or September, the second time you spoke to me --

THE REFEREE: No. Are you testifying that that was the second time he spoke to you?

MR. SASSOWER: That's what he testified.

MR. STRAUS: That's not a question.

1
2 MR. SASSOWER: He testified the first time
3 he spoke to me was July 15. Okay. And the second
4 time he spoke to me was August or September.

5 THE REFEREE: Is that right, sir?

6 THE WITNESS: Sounds right, sure.

7 Q And you said that I made a remark, I walked out
8 because I said -- you want me to repeat your remark
9 again?

10 MR. STRAUS: If your Honor pleases --

11 THE REFEREE: Sustained.

12 Q I said, "I want nothing to do with criminal con-
13 duct."

14 A That's right.

15 Q And --

16 THE REFEREE: Question.

17 Q -- did you know what I was referring to?

18 THE REFEREE: Did he say that in your pres-
19 ence?

20 THE WITNESS: Yes, he did.

21 THE REFEREE: All right.

22 Q And I walked out.

23 A That's correct.

24 Q Do you know what I was referring to?

25 A I believe you were referring to --

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Q Do you know --

THE REFEREE: Wait until he answers the question.

MR. SASSOWER: I believe it's no good.

THE REFEREE: You didn't tell him, you walked out, you said.

MR. SASSOWER: That's what he said.

THE WITNESS: It's my understanding --

THE REFEREE: That's the only testimony that I have is that you walked out.

THE WITNESS: You were referring to the contemplated settlement agreement with the receiver and with the Kaufman estate and Citibank.

Q And what was to be the exchange for that?

A Exchange for what?

Q For settling the case.

A I don't understand what you mean by the exchange.

Q What's the quid pro quo for Hy Raffe paying money? What was the quid pro quo? Do you know what the quid pro quo was?

A Yes. There was no quid pro quo.

MR. STRAUS: Could you instruct Mr. Sassower to lower his voice, please?

Q What was Mr. Raffe supposed to get for paying money?

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A He's getting money back too.

3

Q What was he getting?

4

A He was getting an end to litigation.

5

Q What was he getting besides that?

6

A The litigation was going to cease.

7

Q What was he getting besides that?

8

MR. STRAUS: If your Honor please, I don't think the witness testified that there was anything besides that.

9

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THE REFEREE: Sustained.

12

13

Q Give me the agreement that you signed with the Feltman firm.

14

A I don't have a copy with me.

15

Q Did you send a copy to Mr. Straus?

16

A No.

17

Q Did --

18

MR. SASSOWER: Mr. Straus, do you have a copy?

19

20

THE REFEREE: Mr. Sassower, again --

21

22

23

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MR. SASSOWER: I need that copy. There's a payoff here. You want me to put it straight and the document will show it and you are trying to keep out the records. The records are being kept out because we caught it.

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2 THE REFEREE: Mr. Sassower, I told you the
3 other day --

4 MR. SASSOWER: I understand that.

5 THE REFEREE: You don't understand anything,
6 apparently, you just want a one-way hearing and
7 the only thing contained in the record will be
8 your ranting and raving.

9 If you have any evidence on which to prefer
10 any charges of a criminal nature, you have dis-
11 trict attorneys in five counties. You have U.S.
12 attorneys in two districts.

13 As far as this case is concerned, this
14 hearing is concerned, we're only interested in
15 whether or not you were told "cease and desist."

16 MR. SASSOWER: As a matter of law, it's
17 ineffective.

18 THE REFEREE: All right, that's an argument
19 to make.

20 MR. SASSOWER: He knows about it.

21 THE REFEREE: It doesn't make any difference
22 whether he knows about it.

23 MR. SASSOWER: Judge, I'll put it on the
24 record.

25 THE REFEREE: You have already put it on the

record.

Q Mr. Postel, wasn't it the --

THE REFEREE: Don't answer any question.
I'll wait for quiet first.

MR. SASSOWER: Okay.

THE REFEREE: We're going to take one minute
of silence that we're going to have here.

(Short pause)

THE REFEREE: Question, quietly.

Q Do you have a copy of an agreement signed by
yourself, Mr. Raffe and the Feltman firm?

THE REFEREE: Yes or no.

A Yes, there was an agreement.

Q Was it countersigned by Donald Diamond?

A Was it countersigned by Donald Diamond? It may
have been so ordered but I'm not sure.

Q In that agreement, did you release, did Hyman
Raffe release Judge Klein --

MR. STRAUS: I object to this.

Q -- yes or no.

MR. STRAUS: What difference do the terms --
Mr. Sassower is attempting, as he said in one
of his statements, to show that the agreement
was one which didn't fulfill Mr. Raffe's interests.

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2 MR. SASSOWER: He has the records.

3 THE REFEREE: I don't know if he has any
4 records.

5 MR. SASSOWER: I'll subpoena them, you will
6 see he'll have them.

7 THE REFEREE: Any more questions of this
8 witness?

9 MR. SASSOWER: Yes, I have a day's questions
10 of this witness.

11 THE REFEREE: So far in the last couple of --
12 since we got back from lunch, it's been more
13 speeches.

14 Q Mr. Postel, on the Hyman Raffe against the Arutt
15 firm, did I cite in my papers certain cases, when you said
16 you were the attorney? This goes now in November and Decem-
17 ber. You said I'm the attorney. Okay. And, you said, you
18 said you are the attorney and I cited certain cases in my
19 papers which stood for the proposition --

20 MR. STRAUS: Objection, is this a question?

21 MR. SASSOWER: Yes, it's a question.

22 MR. STRAUS: The form is inappropriate.

23 THE REFEREE: Go ahead.

24 Q -- it stood for the proposition, I cited it.

25 THE REFEREE: What is the question?

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2 Q The question is, did you read the cases that I
3 cited?

4 A No.

5 Q I read you this statement --

6 THE REFEREE: What is the relevance of his
7 reading cases? It's not a seminar of law.

8 MR. SASSOWER: Your Honor, I have told him
9 in November when I found out about this that if
10 you --

11 THE REFEREE: Found out about what?

12 MR. SASSOWER: We're going to get to that.

13 THE REFEREE: No, you make a statement
14 "When I found out about this" -- I don't know what
15 "this" is.

16 MR. SASSOWER: When I found out a certain
17 document had been executed --

18 THE REFEREE: Again --

19 MR. SASSOWER: You asked me a question.

20 THE REFEREE: Next question.

21 Q Do you agree with this statement from New York
22 Jurisprudence, Second section 63, Volume 6 --

23 THE REFEREE: Sir, Mr. Postel has already
24 indicated to you and the Petitioner has indicated
25 that they are relying upon Mr. Raffe's conversat-

1
2 ion with you six months previous to July, a meet-
3 ing on July 15 and a letter dated July 31 and any
4 court orders.

5 MR. SASSOWER: Let me read the quote and you
6 will see the importance of it.

7 Quote, "If a client's new attorney is not
8 properly substituted, his acts as an attorney in
9 the case are inefficient."

10 MR. STRAUS: If your Honor please --

11 MR. SASSOWER: I'm reading.

12 MR. STRAUS: Objection, it's irrelevant.
13 It has nothing to do with the direct testimony.

14 THE REFEREE: Sir, this oral argument --

15 MR. SASSOWER: It's not oral argument.
16 I'm asking him if he agrees with the statement.

17 THE REFEREE: Whether he does or not is ir-
18 relevant.

19 MR. SASSOWER: It is?

20 THE REFEREE: You have a right and you did
21 ask him whether or not he didn't, went to a
22 court and asked for an order to replace you,
23 whether or not he sent you a letter which said,
24 "Listen, I understand you were in the Appellate
25 Division and you have the right to be there" --

1
2 MR. SASSOWER: I'm going still further.
3 I'm saying, and let the record -- I am saying
4 that this man knew all along that unless there
5 is a substitution or an order, it's a nullity.

6 THE REFEREE: Sir --

7 MR. SASSOWER: And he knows it. He's perpe-
8 trating a fraud upon the court.

9 THE REFEREE: Let's assume he knows it, so
10 what?

11 MR. SASSOWER: So what?

12 THE REFEREE: Yes.

13 MR. SASSOWER: Then we'll go the next point.
14 Okay.

15 THE REFEREE: I'll have to make the ultimate
16 decision.

17 MR. SASSOWER: No, as to whether he knows
18 it is in his papers, that is, knows it. That's
19 why he hasn't brought his papers.

20 THE REFEREE: Mr. Sassower, any time you want
21 to take the stand and testify under oath, I'll
22 permit you to do so, but do not characterize the
23 testimony of any witness.

24 MR. SASSOWER: I'll get his papers and I'll
25 show it to your Honor.

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2 MR. STRAUS: If your Honor pleases, we
3 keep --

4 MR. SASSOWER: I asked Mr. Straus --

5 MR. STRAUS: Don't shout in my ear, sir.
6 If you're going to shout, stand in the corner, not
7 in my ear.

8 MR. SASSOWER: They play fast and loose by
9 not bringing papers.

10 THE REFEREE: Mr. Sassower, I made a mis-
11 take when I permitted you to remove your jacket.
12 Maybe you're better off with your jacket on, you
13 didn't yell so much.

14 MR. SASSOWER: They are playing fast and
15 loose.

16 THE REFEREE: That's what you've been saying.

17 MR. SASSOWER: Absolutely.

18 THE REFEREE: All right.

19 MR. SASSOWER: I'd like to see your Honor
20 order him to bring the real papers.

21 THE REFEREE: Do you have any more cross-
22 examination?

23 MR. SASSOWER: Yes.

24 THE REFEREE: Let's hear a question. I haven't
25 heard a question in twenty-five minutes.

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2 Q Mr. Postel, January 3rd, the -- January 23rd, you
3 first spoke to Mr. Raffe.

4 A No.

5 Q Mr. Gordon.

6 A No.

7 Q When did you first speak to Mr. Raffe.

8 A It would have been the week after the July 4th
9 holiday.

10 Q That will be all indicated in your papers, wouldn't
11 it?

12 MR. STRAUS: Objection. What are you refer-
13 ring to?

14 THE REFEREE: Sustained. It has nothing to
15 do with his papers.

16 He asked him a question of when he spoke to
17 Mr. Raffe for the first time.

18 He said the week of July 4th.

19 Q How long before, how many conversations did you
20 have with him before July 15?

21 A Mr. Raffe?

22 Q Yes.

23 A Maybe two.

24 Q And you knew Mr. Raffee knew a lot of attorneys
25 or some attorneys besides yourself.

1
2 A No.

3 Q Mr. Postel, didn't you tell Mr. Raffe that
4 through your father you knew Judge Klein and Judge Ricco-
5 bono very well?

6 A No.

7 Q Didn't you tell me that you knew Judge Klein
8 and Judge Riccobono very well, yes or no?

9 THE REFEREE: Wait until he answers.

10 A I know Judge Klein and I happen to know Judge
11 Riccobono.

12 Q And you know them a long time.

13 A Yes, I know them a long time. They are social
14 friends of my parents. I've met them on social engagements
15 with my parents.

16 Q There's nothing wrong with that.

17 A I know there isn't.

18 Q Let's go to the next step.

19 When I told you to -- this is your remark --
20 you said in August or September, the second time you spoke
21 to me --

22 THE REFEREE: No. Are you testifying
23 that that was the second time he spoke to you?

24 MR. SASSOWER: That's what he testified.

25 MR. STRAUS: That's not a question.

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2 MR. SASSOWER: He testified the first time
3 he spoke to me was July 15. Okay. And the second
4 time he spoke to me was August or September.

5 THE REFEREE: Is that right, sir?

6 THE WITNESS: Sounds right, sure.

7 Q And you said that I made a remark, I walked out
8 because I said -- you want me to repeat your remark
9 again?

10 MR. STRAUS: If your Honor pleases --

11 THE REFEREE: Sustained.

12 Q I said, "I want nothing to do with criminal con-
13 duct."

14 A That's right.

15 Q And --

16 THE REFEREE: Question.

17 Q -- did you know what I was referring to?

18 THE REFEREE: Did he say that in your pres-
19 ence?

20 THE WITNESS: Yes, he did.

21 THE REFEREE: All right.

22 Q And I walked out.

23 A That's correct.

24 Q Do you know what I was referring to?

25 A I believe you were referring to --

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Q Do you know --

THE REFEREE: Wait until he answers the question.

MR. SASSOWER: I believe it's no good.

THE REFEREE: You didn't tell him, you walked out, you said.

MR. SASSOWER: That's what he said.

THE WITNESS: It's my understanding --

THE REFEREE: That's the only testimony that I have is that you walked out.

THE WITNESS: You were referring to the contemplated settlement agreement with the receiver and with the Kaufman estate and Citbank.

Q And what was to be the exchange for that?

A Exchange for what?

Q For settling the case.

A I don't understand what you mean by the exchange.

Q What's the quid pro quo for Hy Raffe paying money? What was the quid pro quo? Do you know what the quid pro quo was?

A Yes. There was no quid pro quo.

MR. STRAUS: Could you instruct Mr. Sassower to lower his voice, please?

Q What was Mr. Raffe supposed to get for paying money?

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A He's getting money back too.

Q What was he getting?

A He was getting an end to litigation.

Q What was he getting besides that?

A The litigation was going to cease.

Q What was he getting besides that?

MR. STRAUS: If your Honor please, I don't think the witness testified that there was anything besides that.

THE REFEREE: Sustained.

Q Give me the agreement that you signed with the Feltman firm.

A I don't have a copy with me.

Q Did you send a copy to Mr. Straus?

A No.

Q Did --

MR. SASSOWER: Mr. Straus, do you have a copy?

THE REFEREE: Mr. Sassower, again --

MR. SASSOWER: I need that copy. There's a payoff here. You want me to put it straight and the document will show it and you are trying to keep out the records. The records are being kept out because we caught it.

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2 THE REFEREE: Mr. Sassower, I told you the
3 other day --

4 MR. SASSOWER: I understand that.

5 THE REFEREE: You don't understand anything,
6 apparently, you just want a one-way hearing and
7 the only thing contained in the record will be
8 your ranting and raving.

9 If you have any evidence on which to prefer
10 any charges of a criminal nature, you have dis-
11 trict attorneys in five counties. You have U.S.
12 attorneys in two districts.

13 As far as this case is concerned, this
14 hearing is concerned, we're only interested in
15 whether or not you were told "cease and desist."

16 MR. SASSOWER: As a matter of law, it's
17 ineffective.

18 THE REFEREE: All right, that's an argument
19 to make.

20 MR. SASSOWER: He knows about it.

21 THE REFEREE: It doesn't make any difference
22 whether he knows about it.

23 MR. SASSOWER: Judge, I'll put it on the
24 record.

25 THE REFEREE: You have already put it on the

record.

Q Mr. Postel, wasn't it the --

THE REFEREE: Don't answer any question.
I'll wait for quiet first.

MR. SASSOWER: Okay.

THE REFEREE: We're going to take one minute
of silence that we're going to have here.

(Short pause)

THE REFEREE: Question, quietly.

Q Do you have a copy of an agreement signed by
yourself, Mr. Raffe and the Feltman firm?

THE REFEREE: Yes or no.

A Yes, there was an agreement.

Q Was it countersigned by Donald Diamond?

A Was it countersigned by Donald Diamond? It may
have been so ordered but I'm not sure.

Q In that agreement, did you release, did Hyman
Raffe release Judge Klein --

MR. STRAUS: I object to this.

Q -- yes or no.

MR. STRAUS: What difference do the terms --
Mr. Sassower is attempting, as he said in one
of his statements, to show that the agreement
was one which didn't fulfill Mr. Raffe's interests.

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2 I submit to you that it wouldn't make any
3 difference.

4 MR. SASSOWER: You're keeping that from the
5 Court.

6 MR. STRAUS: Just allow someone else to
7 speak, sir.

8 THE REFEREE: Mr. Sassower, you keep this
9 up and I'm going to terminate the hearing and
10 render a decision based on what I have.

11 I'm not going to countenance any continued
12 conduct on your part the way you have exhibited
13 it the last two or three days.

14 MR. SASSOWER: May the record show --

15 THE REFEREE: We're human beings here.

16 MR. SASSOWER: May the record show there
17 seems to be a studied attempt by all witnesses,
18 by Mr. Schneider and Mr. Postel to come barehanded
19 here, no records and the Court quashes subpoenas.

20 THE REFEREE: You have made that statement
21 now numerous times. You keep repeating and re-
22 peating the big lie.

23 I told you anything that's irrelevant I
24 don't want any part of.

25 Whether or not any one of your former clients

1
2 or anybody involved in this case committed
3 criminal acts is not before me and, if, as the
4 Petitioner contends, you were barred from acting
5 as a representative, as a lawyer for Mr. Raffe
6 since January --

7 MR. SASSOWER: I was not --

8 THE REFEREE: Wait a minute. I said, if, as
9 contended, by the Petitioner, then it is the
10 Petitioner's contention that you had no right to
11 act and it is my position that regardless of
12 whether you find criminal acts are or are not
13 committed, does not give you permission or
14 authority to represent a client who told you "I
15 no longer want you to represent me."

16 MR. SASSOWER: You are assuming that that let-
17 ter is a fake. That letter deliberately does not
18 contain Postel's name on it, not his initials,
19 was sent to Judge Klein.

20 THE REFEREE: We have that already.

21 MR. SASSOWER: And I don't know what the deal
22 was.

23 THE REFEREE: Do you have any cross-examinat-
24 ion?

25 MR. SASSOWER: Yes, I do, but, I'd like

1
2 to have it with his documents.

3 THE REFEREE: Sir, you are going to ask a
4 question in a civilized manner and you are not
5 going to bulldoze anyone around here and threaten
6 anybody.

7 MR. SASSOWER: May I in a civilized manner
8 have the witness produce his papers?

9 MR. STRAUS: Objection.

10 THE REFEREE: Sustained.

11 MR. STRAUS: I'd like to state something,
12 for all time, if your Honor please, I'll make
13 this representation, I asked Mr. Postel if he had
14 any records that Mr. Sassower did not have in his
15 possession or was he aware of any records that Mr.
16 Sassower did not have in his possession and he
17 indicated to me that he would look for anything
18 that he thought he might find that he thought
19 Mr. Sassower hadn't either been the author of or
20 the recipient of because he also indicated that
21 it would be physically impossible for him, and, by
22 the way, he was never served with a subpoena, as
23 I understand it.

24 MR. SASSOWER: That's because Judge Potoker--

25 THE REFEREE: Sir, don't start in with

1
2 Because --

3 MR. SASSOWER: That's the truth.

4 THE REFEREE: Were you served with a sub-
5 poena?

6 MR. SASSOWER: No, because I had to recall
7 it.

8 THE REFEREE: Please, I'm asking the question,
9 not you.

10 MR. SASSOWER: You caused me to recall it.

11 THE REFEREE: Not you.

12 MR. SASSOWER: Judge, you caused me to recall
13 it.

14 Your Honor caused me to recall it.

15 MR. STPAUS: May I ask if your question,
16 your Honor, and the witness' answer to the quest-
17 ion of the subpoena is on the record?

18 THE REFEREE: No, it has not been subpoenaed.
19 Go ahead. Next question, Mr. --

20 Q When you billed Mr. Raffe, did you take it from
21 the time sheets which have dates and hours?

22 A I took it from my calendar.

23 THE REFEREE: What is the relevance of that?

24 MR. SASSOWER: Because it would give specific
25 dates.

1 THE REFEREE: As to what?

2 MR. SASSOWER: And certain things.

3 THE REFEREE: What certain things? We're
4 only interested in one thing.

5 MR. SASSOWER: Do you have to tell him be-
6 forehand so it can be destroyed?

7 MR. STRAUS: This is the eighth time or
8 ninth time we've accused this witness of certain
9 conduct, nothing of which has been --

10 Q Has Mr. Raffe gone to jail?

11 A No.

12 Q Doesn't the agreement provide --

13 THE REFEREE: What agreement?

14 MR. SASSOWER: The agreement that he signed
15 with the Feltman firm.

16 THE REFEREE: Provide what?

17 Q Mr.Postel --

18 THE REFEREE: Are you withdrawing the last
19 question?

20 MR. SASSOWER: Yes, your Honor put the quest-
21 ion. I didn't want that question.

22 THE REFEREE: You are the one who started
23 asking it.

24 MR. SASSOWER: I wanted the document.
25

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2 THE REFEREE: Sir --

3 Q Mr. Postel, have you ever seen a case in the
4 United States since 1968, where a person was held -- was
5 tried, was convicted, sentenced and incarcerated for non-
6 summary criminal contempt without a trial?

7 MR. STRAUS: If your Honor please, I object.

8 THE REFEREE: Sustained.

9 MR. SASSOWER: No, your Honor, I'm telling
10 you these things were entered ex-parte as part
11 of his extortion that he said --

12 THE REFEREE: Mr. Sassower, do you know what
13 the word "sustained" is?

14 MR. SASSOWER: Yes, I do.

15 THE REFEREE: I sustained the objection.

16 Next question.

17 Q Mr. Postel, did you tell the Feltman firm that
18 Mr. Raffo will settle rather than go to jail, yes or no?

19 A No, I did not.

20 Q Were you --

21 A In fact, I told them just the contrary.

22 Q When did you tell them this?

23 A In our negotiations.

24 Q What did you tell them?

25 A I told them if they wanted to settle the litigation

1 and end it, fine, but if they thought putting Mr. Raffe
2 in jail will end the litigation they were wrong because
3 all it would do would prolong the litigation and at one
4 point I told Mr. Relkin in his office that if it was his
5 objective to put Mr. Raffe in jail and settle the case
6 and close out the Kaufman estate, I told him if he put Mr.
7 Raffe in jail, the Kaufman estate would be closed in the
8 lifetime of my grandchildren, not him or anybody else --

9 Q Oh, you're threatening him.

10 A I told him a question of fact that putting Mr.
11 Raffe in jail will not be used as a tool to negotiate
12 with me or Mr. Raffe and that if he seriously wanted to
13 settle the litigation and end all this nonsense, he had to
14 do so in a framework of negotiations and I wasn't going to
15 negotiate with a jail term over my client's head and that's
16 what I told him.

17 Q That's enough.

18 THE REFEREE: You asked the question.

19 MR. SASSOWER: I move to strike.

20 THE REFEREE: Denied.

21 MR. SASSOWER: I'm not present. He makes a
22 speech. Rank hearsay. And, you deny it, let him
23 go on.

24 MR. STRAUS: You asked the question.

MR. SASSOWER: What question did I ask?

He didn't answer the question. He should answer yes or no, that's it.

THE REFEREE: Mr. Sassower --

MR. SASSOWER: Okay, you're smart enough to know what's right or wrong.

THE REFEREE: You will decide that when you sit up here. Don't you usurp my function, don't try to do it.

MR. SASSOWER: Your Honor knows what I'm entitled to and I'm entitled to documents.

THE REFEREE: You don't want to listen.

Q Is that all big speech --

THE REFEREE: He didn't make any speech. You're the one making a speech.

Q Is that dialogue --

THE REFEREE: Response.

Q -- response set forth in a letter to the Feltman firm?

A No.

Q Is it set forth in a letter to the Relkin firm?

A No.

Q When was the first time you spoke to Donald

Schneider?

MR. STRAUS: Objection. That's been asked and answered.

MR. SASSOWER: I don't know the --

THE REFEREE: He forgot it by now.

A I called Mr. Schneider's firm on January 3rd. He was not there. I spoke to Miss Brennan. I then, the next time I called the Schneider firm would have been after I was retained by Mr. Raffe. I called Schneider's office and spoke to Schneider and told him that I was now representing Mr. Raffe.

Q By the way, did you ever -- when was the first time -- did you send him a letter and say "That I am retained by Mr. Raffe"?

A No.

Q Didn't they ask you, you know what the law is --

MR. STRAUS: Objection.

THE REFEREE: Don't give us a course in law.

Q You have seen attorneys substituted time and time again, haven't you?

A Yes.

Q Isn't it always by stipulation and order? Have you ever seen it any other way?

A Yes, yes, I have.

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Q Tell me a single instance, with specificity.

A I can't recall the names. I have been practicing for twenty years, Mr. Sassower.

MR. STRAUS: I object to the question.

THE REFEREE: His answer was yes, period.

Q Did you look up the cases and all the cases seem to me --

MR. STRAUS: Objection.

MR. SASSOWER: Judge, I'm telling you --

THE REFEREE: Let's not have a seminar on the law. We're not here for that purpose.

MR. SASSOWER: I'm telling your Honor --

MR. STRAUS: Objection. It's repetitious.

MR. SASSOWER: Excuse me.

THE REFEREE: Mr. Sassower, I know your position.

MR. SASSOWER: You know my position? He knew it was this way and this is a fabrication.

THE REFEREE: It's not a question of whether he knew. It's a question of whether you knew that you were no longer the attorney.

MR. SASSOWER: Absolutely not.

THE REFEREE: That's the only question.

MR. SASSOWER: Of course not.

THE REFEREE: All right.

MR. SASSOWER: Do you think I'm filing papers if I'm not the attorney? I'm not crazy.

THE REFEREE: Okay, don't make us crazy.

Q Did you tell this entire story to Mr. Straus?

MR. STRAUS: What entire story?

THE REFEREE: What entire story?

Q But you calling up the Feltman firm on the 3rd or whatever date you did?

A I don't believe so.

Q Did you ever write to Mr. Straus?

A No.

Q Did he ever write to you?

A Did he ever write to me?

I think I got one letter when I was served with a subpoena.

Q You don't think so.

MR. SASSOWER: Could I have all the correspondence between you and Mr. Postel, Mr. Straus?

THE REFEREE: What's the relevance?

MR. SASSOWER: I'm entitled to it.

MR. STRAUS: No, you're not.

MR. SASSOWER: May I have the notes?

MR. STRAUS: I have certainly no intention

of turning over anything unless Judge Potoker directs me and I can't see the relevance of it.

If you have something which you think is inconsistent which you believe is inconsistent --

MR. SASSOWER: I'll ask the next question.

Q Did Mr. Straus -- did you discuss this entire transaction with Mr. Straus?

THE REFEREE: What transaction?

Q You are coming in on July 15th.

A Yes. I think we had a discussion of those events, yes.

Q And did he ever ask you whether you got a stipulation of substitution?

MR. STRAUS: Objection.

THE REFEREE: Overruled.

MR. SASSOWER: Why?

THE REFEREE: Overruled.

MR. STRAUS: It makes no difference whether I asked him.

MR. SASSOWER: I'm saying that you are part of this thing, that you know about the criminal contempt.

MR. STRAUS: Mr. Sassower --

MR. SASSOWER: The papers in the Appellate

Division show it, your Honor.

MR. STRAUS: What papers have been granted?

THE REFEREE: Mr. Sassower, you keep telling me about papers, cases and all.

So far, I've seen nothing from you.

MR. SASSOWER: You're going to see it.

THE REFEREE: You keep talking about Judge Evans and you were going to give it to me.

MR. SASSOWER: I said I'll have to get it.

THE REFEREE: Everything you're going to get.

MR. SASSOWER: No, your Honor --

THE REFEREE: So far we have nothing.

MR. SASSOWER: Come on, you've got plenty, please.

THE REFEREE: You have harangued --

MR. SASSOWER: Your Honor knows --

THE REFEREE: Wait a minute.

MR. SASSOWER: Your Honor knows now lawyers are substituted --

THE REFEREE: Don't shout in Mr. Straus' ears. You're too close to him.

MR. SASSOWER: Well --

THE REFEREE: If not, I'll have Mr. Straus sit at the other end.

MR. STRAUS: If you direct me --

Q Did you tell all this to Mr. Straus?

A I don't know what you mean by that.

Q Substantially in this chronology.

THE REFEREE: Rephrase the question.

Q Did Mr. Straus ever ask you, question, in sum and substance, did you ever get a stipulation substituting Mr. Sassower?

A I think he did and I believe I told him that I didn't think it was necessary because you were disqualified or disabled in all of these cases.

Q In all of these cases.

A Yes.

Q That was your opinion?

A Yes.

Q How could you tell Mr. Straus --

THE REFEREE: Whether he could or not, he did tell it to him, period.

MR. SASSOWER. I'm asking him.

THE REFEREE: No, no. Objection sustained. Objection sustained.

MR. SASSOWER: Judge, let me ask this question for the record.

Q Mr. Postel --

1 THE REFEREE: Please.

2 Q -- I filed an appeal --

3 THE REFEREE: Please don't, please stand
4 back.

5 Q Mr. Postel, I filed an appeal --

6 MR. STRAUS: Objection.

7 THE REFEREE: We went through that.

8 MR. SASSOWER: Fine. How could he say
9 that I was disqualified, see the judge now?

10 MR. STRAUS: Objection.

11 THE REFEREE: Sir, you want to ask him on
12 what cases you were disqualified, all right.

13 MR. SASSOWER: He told us which ones.

14 THE REFEREE: Were there any specific cases
15 that you were aware of that he was disqualified?

16 THE WITNESS: I acted on the belief that
17 he was disqualified on all of them.

18 Q You did?

19 A Yes.

20 Q Okay. When did you come to that belief that I
21 was disqualified on all of them?

22 A From the very beginning when I got into this liti-
23 gation.

24 Q Did you ever represent to anybody that you ever
25

asked me for a stipulation of substitution? Yes or no.

MR. STRAUS: Objection. If that's not the eighth time, it may have been the twelfth time.

A I don't remember.

Q Do you remember if you ever asked me for a stipulation?

A I may have discussed it with you in one of our casual meetings but I don't recall.

Q Don't you think, sir, -- when was this that you asked me for it?

THE REFEREE: He says he doesn't recall.

Q The question is, did you ever represent to anybody that you asked me for a stipulation?

A I don't recall.

Q I want to read you --

THE REFEREE: No.

Q -- I want to read you something to see if it refreshes his recollection.

THE REFEREE: You can only read something that's in evidence.

Q Did you --

THE REFEREE: No, I said no.

Q I show you this document --

THE REFEREE: Let's mark it first for

for identification. That will be Respondent's Y
for identification.

(So marked)

Q To refresh your recollection, did you, in October,
refresh your recollection --

THE REFEREE: Let's get the question first.

Q Did you represent --

MR. SASSOWER: May I, please?

Q -- did you represent to the Kreindler firm,
quote, "I further--"

THE REFEREE: The Kreindler firm representing
whom?

THE WITNESS: Kaufman estates.

Q "-- I further confirm to you that we --"
speaking about Raffee and you --

THE REFEREE: As I gather Mr. Kaufman was
one of the partners in Puccini.

THE WITNESS: Yes.

Q -- "I further confirm to you that we have request-
ed stipulations of substitutions but have not been able to
obtain same from Mr. Sassower and Polur."

A I believe that -- the letter says so and I
signed it.

Q May I see the letter? "And have not been able to"--

THE REFEREE: He says yes.

Q Now, tell me, when did I refuse -- did you ever mail me a stipulation of substitution?

MR. STRAUS: Objection.

A No, I did not.

THE REFEREE: Overruled.

Q When, if any, did I ever refuse to sign a stipulation of substitution?

A I don't recall the exact date we had a discussion, I believe it took place, I believe Mr. Raffe discussed it with you.

Q You don't recall specifically you discussing it with me.

A I don't recall the exact words, no.

Q When would that be?

A It would have been at one of our meetings at Mr. Raffe's office.

Q We only had three meetings according to your testimony.

A That's right.

Q July 15, August, September.

A It would have been in one of those meetings.

Q Let me ask you something, if you were retained on July 15 and papers were sent out, now, here we have

1
2 on one hand papers being sent out to Feltman and the
3 Kreindler firm, okay? On the other hand, you are talking
4 to the Feltman and Kreindler firm as Raffe's attorney and
5 I'm sending out papers as Raffe's attorney, is that the
6 situation?

7 MR. STRAUS: Objection.

8 THE REFEREE: Sustained.

9 Q Were you corresponding with the Kreindler an
10 the Feltman firm from July 15 to July 31st, let's say in
11 writing?

12 MR. STRAUS: He's testified to this.

13 A There may have been some writings but most of my
14 conversations and contacts with both the Feltman firm and
15 the Kreindler firm were oral.

16 Q Were there any writings?

17 A There may have been. I don't remember.

18 Q But they would be in your files?

19 A If they were there.

20 Q When you wrote to the Kreindler firm and Feltman
21 firm, did you send carbon copies to me?

22 A No.

23 Q So, actually, from the perspective of the
24 Kreindler and Feltman firms, they were getting their
25 perspective, not from your perspective, from the Feltman

1
2 firm and the Kreindler firm, and their perspective, they
3 were getting representations that you were the attorney
4 and that I was the attorney, and they were getting papers
5 by me that I was Raffe's attorney.

6 MR. STRAUS: Objection. The witness' can't
7 testify to that.

8 THE REFEREE: Sustained.

9 MR. SASSOWER: On what ground?

10 THE REFEREE: Rephrase your question. I'm --

11 MR. SASSOWER: If you would permit me.

12 THE REFEREE: I'm permitting you to ask
13 questions.

14 Q Let me ask you a question in the form of a very
15 short sentence.

16 MR. SASSOWER: With your Honor's permission,
17 because it expresses it better than I can --

18 Q -- the Kitch case in the Second Department, Appel-
19 late Division, quote, "To allow more than one attorney for
20 a party in a single action would play havoc with the es-
21 tablished responsibility in respect to professional
22 representation in civil proceedings and in the process of
23 litigation.

24 THE REFEREE: We're right back where we
25 started.

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2 MR. SASSOWER: I don't understand. Wait a
3 second.

4 THE REFEREE: We have your contention that you
5 were not properly substituted for.

6 Therefore, anything you did was okay.

7 That's your position. I know your position.

8 MR. SASSOWER: I'll go one step further. I
9 go one step further.

10 Let me make my position clear.

11 THE REFEREE: You said everybody engaged in
12 a coverup of some kind.

13 MR. SASSOWER: No. You're right insofar as
14 it is my position and Mr. Straus, my position is
15 very well-stated, New York Jurisprudence, Second,
16 I think presents the law very well.

17 MR. STRAUS: Your Honor, I'll object to Mr.
18 Sassower trying to educate the Court.

19 The proper way to do it is not by questioning
20 a witness who said, one, his client had removed
21 Mr. Sassower, and, two, in his opinion Mr. Sassow-
22 er was disqualified.

23 Now, if Mr. Sassower wants to dispute that,
24 he can do it by evidence, but not by asking the
25 witness the same questions over and over again.

1 THE REFEREE: Mr. Sassower --

2 MR. SASSOWER: Your Honor --

3 THE REFEREE: Mr. Sassower --

4 MR. SASSOWER: -- let me tell you my position.

5 THE REFEREE: Mr. Sassower, sixty-three,
6 the paper you just handed me does not say what you
7 insist it says and I suggest you read it to your-
8 self.

9 MR. SASSOWER: Your Honor, I read it very
10 clearly and I've got the cases also, your
11 Honor.

12 THE REFEREE: Read the law. Incidentally,
13 if that's a copy, let it with me.

14 MR. SASSOWER: I'll make another copy.

15 THE REFEREE: Give a copy to Mr. Straus.

16 MR. SASSOWER: He's got New York Jurispru-
17 dence.

18 THE REFEREE: If you're making copies,
19 punch 2, instead of 1.

20 MR. SASSOWER: Okay.

21 Q Mr. Postel, you communicate with the Feltman
22 firm before July 15, right, as you testified?

23 MR. STRAUS: Your Honor --

24 Q Drawing your attention to that --
25

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2 MR. STRAUS: Repeating the same question
3 doesn't constitute cross-examination.

4 MR. SASSOWER: I'm drawing his attention to
5 it.

6 THE REFEREE: Don't answer Mr. Straus, just
7 go ahead.

8 Q Are you familiar with Disciplinary Rule 1074?

9 THE REFEREE: It has nothing to do with it.

10 MR. SASSOWER: Yes, it does.

11 THE REFEREE: It doesn't. Objection.

12 MR. STRAUS: Yes, your Honor.

13 THE REFEREE: Sustained.

14 MR. SASSOWER: Your Honor, I regret that
15 to a large extent --

16 THE REFEREE: Do you have a question?

17 MR. SASSOWER: To a large extent --

18 THE REFEREE: Again, this another speech?

19 MR. SASSOWER: I want you -- I want to tell
20 you my position.

21 To a large extent a lot of it will have to
22 be duplicated when his records come.

23 MR. STRAUS: I don't know what records
24 you're talking about that are coming in.

25 MR. SASSOWER: He's getting calendars. He's

1
2 got papers which show -- he's got papers which
3 show right down the line that I was representing
4 Mr. Raffe, knew that I was representing Raffe,
5 didn't say a word, didn't do a thing.

6 THE REFEREE: He doesn't have to do anything,
7 sir.

8 The Petitioner is contending that Mr. Raffe
9 did it by word of mouth in January, by a letter
10 in July and by various court orders.

11 MR. SASSOWER: No, first of all, --

12 THE REFEREE: Don't say no.

13 MR. SASSOWER: Let me tell you something.

14 MR. STRAUS: That's what the Petitioner says.

15 THE REFEREE: I know your position.

16 MR. SASSOWER: I happen to know --

17 THE REFEREE: Your position is that you
18 suspected or you believed there was corruption
19 going on here.

20 MR. SASSOWER: I know it.

21 THE REFEREE: And you were going to expose
22 it.

23 MR. SASSOWER: I wasn't going to expose it.
24 Don't say it, your Honor. I was not going to get
25 involved in compounding a crime.

1 THE REFEREE: You were not getting it.

2 MR. SASSOWER: This guy was a fixer. He
3 knew Klein. This was the whole thing. Big deal.
4 You weren't born yesterday, your Honor.
5

6 MR. STRAUS: I'd ask that this cross-exami-
7 nation be considered at an end in view of Mr.
8 Sassower's performance. He's not asking questions.
9 He's just belaboring the witness.

10 THE REFEREE: May I suggest --

11 MR. SASSOWER: Who's kidding who here?

12 THE REFEREE: -- that the speech you made
13 be part of a continuing speech for the rest of
14 this trial without you repeating it?

15 I'm not going to permit you to repeat some-
16 thing that you have said once.

17 MR. SASSOWER: I'm going to prove it.

18 THE REFEREE: You're not going to prove it
19 in my courtroom.

20 MR. SASSOWER: I'm going to prove it.

21 THE REFEREE: No.

22 MR. SASSOWER: That's why because your Honor
23 knows --

24 THE REFEREE: I've already told you, sir,
25 the law enforcement agencies are hungry for

for business.

MR. SASSOWER: I know.

Q Mr. Postel --

THE REFEREE: There's a narrow issue before me.

MR. SASSOWER: Fine. I'm going to tell your Honor --

THE REFEREE: What? That you haven't told me up to this point? Don't tell me --

MR. STRAUS: If your Honor pleases --

MR. SASSOWER: Wait a second.

THE REFEREE: Don't tell Mr. Straus to wait a second.

MR. STRAUS: I want to make an application.

THE REFEREE: Yes.

MR. STRAUS: In view of the repetetive nature, in view of the questions which repeatedly violated your rulings as to what the proper areas and subjects were to explore, I would ask you to terminate the cross-examination because Mr. Sassower is not pursuing, first of all, anything that he is permitted to pursue.

Second of all, anything that he hasn't pursued at least four or five times today and.

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2 finally, because he's using this to threaten,
3 harass and belabor the witness by name calling
4 and accusations.

5 THE REFEREE: It's spread all over the record.

6 MR. STRAUS: I don't think that Mr. Postel
7 should be subjected to any more of it.

8 THE REFEREE: Mr. Schneider was subjected
9 to it last week.

10 Any more questions?

11 MR. SASSOWER: A lot of it.

12 THE REFEREE: Real questions, from here on
13 in. Mr. Straus, make your objection. I'll rule,
14 if I can, immediately. Go ahead.

15 MR. SASSOWER: Can I proceed?

16 Q You testified that you were present when I
17 presented and argued a writ of habeas corpus before
18 Judge Lowe, is that correct?

19 MR. STRAUS: Objection.

20 THE REFEREE: Sustained.

21 MR. SASSOWER: I'm leading to a second ques-
22 tion.

23 THE REFEREE: Sustained. Go ahead.

24 Q Do you know what the outcome of that proceeding
25 before Judge Lowe was, yes or no?

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A Yes, it was denied.

Q On what grounds, exhaustion of --

MR. STRAUS: Objection.

THE REFEREE: Did you ask him if he knew?

MR. SASSOWER: Yes.

THE REFEREE: His answer was yes or --

THE WITNESS: Yes. The application was denied.

Q On what grounds?

MR. SASSOWER: Maybe he knows.

Q What were the grounds?

THE REFEREE: Do you happen to know?

THE WITNESS: I believe one of the grounds was the exhaustion of state remedies.

THE REFEREE: I didn't hear that.

THE WITNESS: Mr. Sassower had not exhausted fully his state remedies.

Q When there was an exhaustion of state remedies to a large extent --

MR. STRAUS: Objection. There is no testimony to that.

THE REFEREE: Sustained.

Q Was there a new application made on behalf of Mr. Raffé to declare his conviction null and void under

under the constitution of the United States, yes or no?

A Before whom?

Q Judge Lowe.

THE REFEREE: By whom?

MR. SASSOWER: By Judge Lowe.

THE REFEREE: By whom?

MR. SASSOWER: By me.

A I don't recall seeing those papers.

Q That's quite possible because papers were served upon me.

MR. STRAUS: Objection.

THE REFEREE: Mr. Sassower --

MR. SASSOWER: I want to refresh his recollection.

THE REFEREE: Again you have no right to be there in the first place.

MR. SASSOWER: Will you listen to me, if your Honor pleases?

THE REFEREE: No, no. You better start listening to me.

MR. SASSOWER: I don't care.

THE REFEREE: You better listen to me.

MR. SASSOWER: Let me make my statement.

THE REFEREE: You made the same statement on

and on.

MR. SASSOWER: I didn't talk about this yet.

Q Did you authorize papers to be typed up by the Feltman firm, sent by the Feltman firm, using your back?

MR. STRAUS: Objection. It's the same question; he asked it twice before.

THE REFEREE: Let him finish it, go ahead.

MR. SASSOWER: I did not.

Q Whereby --

MR. SASSOWER: I'm sorry, I withdraw that because there's another question first.

Q There came a time when based upon the letter of July 31st, 1985, --

THE REFEREE: You said you never got the letter.

MR. SASSOWER: When I got it from Mr. Straus.

Q Within a few days after I got the letter from Mr. Straus --

MR. STRAUS: Objection. This is not in the form of a question. It's in the form of testimony.

THE REFEREE: Question.

Q There came a time --

THE REFEREE: Question.

Q Question, did you receive indirectly a motion

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2 made by me to vacate the conviction of Hyman Raffe by
3 Judge Klein on the grounds that Judge Klein, the Feltman
4 firm and the Kreindler firm had in their possession excul-
5 patory material and, therefore, under Brady against Mary-
6 land, the conviction was no good?

7 A I believe I saw those papers.

8 Q And that motion was made on behalf of Hyman
9 Raffe purportedly by me, by Hyman Raffe?

10 A That's correct.

11 Q And that application inured to the benefit of
12 Hyman Raffe, is that correct?

13 A I don't think --

14 Q A dismissal on the grounds of Brady against
15 Maryland.

16 THE REFEREE: Let's assume you're correct,
17 Mr. Raffe says, "Don't bother me anymore."

18 MR. SASSOWER: Wait a minute, he didn't say
19 that at that point.

20 MR. STRAUS: I object to this line of ques-
21 tioning.

22 MR. SASSOWER: You see, your Honor --

23 MR. STRAUS: Yes, I do object.

24 MR. SASSOWER: -- you're assuming something.

25 THE REFEREE: I'm not assuming anything.

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2 MR. SASSOWER: Yes, you are.

3 THE REFEREE: All I'm assuming is that you
4 will listen to my rulings and once I make them
5 you will live up to them.

6 MR. SASSOWER: Well, Judge, you know, I'm
7 going to show you that it's relevant. I would
8 not show it to you now.

9 THE REFEREE: So far you haven't shown me
10 that it's relevant.

11 MR. SASSOWER: Because I haven't a certain
12 document which Mr. Postel has and I don't have it
13 here.

14 THE REFEREE: Next question.

15 MR. SASSOWER: Subject to relevancy.

16 THE REFEREE: Next question.

17 Q Are you aware there was submitted an affidavit
18 opposing that motion by Mr. Raffe?

19 MR. STRAUS: Objection.

20 Q Yes or no.

21 MR. STRAUS: Objection. It's the same line
22 of questioning.

23 MR. SASSOWER: It's not.

24 THE REFEREE: Sustained.

25 MR. SASSOWER: Your Honor, I'm showing your

Honor --

THE REFEREE: Sustained.

MR. SASSOWER: I'm going to show your Honor --

THE REFEREE: I know what you're attempting to show.

MR. SASSOWER: Would your Honor put it on the record what I am trying to show?

THE REFEREE: Next question.

MR. SASSOWER: Tell your Honor what I'm showing -- tell me what I'm showing, then let me put it on the record.

I'll show -- I'm going to show --

THE REFEREE: Mr. Sassower, you are not helping your cause.

MR. SASSOWER: Please let me put it on the record?

THE REFEREE: Everything is on the record. It's the same position.

MR. SASSOWER: Don't --

THE REFEREE: Don't yell at me. Stand back twenty paces, please.

MR. SASSOWER: If you say it's the same contention, fine, then you put it on the record.

THE REFEREE: I'm not putting anything on the

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record.

MR. SASSOWER: Then let me put it on the record. I say this is not on there.

THE REFEREE: Next question.

MR. SASSOWER: Would you believe me when I say it's not on there?

THE REFEREE: Next question.

MR. SASSOWER: Can I put it on the record?

THE REFEREE: Put it on the record and let's get it over with.

MR. SASSOWER: When I made a motion to vacate

THE REFEREE: Judge Klein's order on behalf of Mr. Raffe.

MR. SASSOWER: -- based upon Brady against Maryland --

THE REFEREE: Yes. So what's the tail end of that question?

MR. SASSOWER: A document came in.

THE REFEREE: Question.

Q Who typed and mailed the affidavit in opposition by Mr. Raffe?

MR. STRAUS: Objection.

THE REFEREE: Overruled. Do you know what he's talking about?

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2 THE WITNESS: If he shows me the papers.

3 MR. SASSOWER: I don't have it here. I can get
4 it. You have it.

5 THE WITNESS: Can you show me the papers
6 that you showed me, the only papers that Mr.
7 Schneider's office ever mailed for me with the
8 papers that you showed me this morning?

9 Q Now, let me -- let me put it in a roundabout way.

10 THE REFEREE: No, no, that's where we've been
11 going. We've been going in circles here for two
12 days.

13 MR. SASSOWER: I assure you your Honor
14 doesn't know.

15 THE REFEREE: No, be specific.

16 MR. SASSOWER: You may not know about it,
17 but I'm --

18 THE REFEREE: So, what do you want from him?

19 MR. SASSOWER: That came on his back.

20 THE REFEREE: You're saying, you're saying
21 he may not know about it.

22 MR. SASSOWER: I'm trying to find out if he
23 knows.

24 THE REFEREE: You already stated that he may
25 not know about it.

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2 MR. SASSOWER: I don't know. I'm asking a
3 question.

4 Q There's an affidavit in opposition on your back.

5 THE REFEREE: Sir --

6 A Probably mailed by me.

7 THE REFEREE: Do you know anything about an
8 affidavit in opposition on your legal statinery?

9 THE WITNESS: There have been so many of
10 them lately that I can't keep count of which one
11 he's referring to.

12 MR.SASSOWER: That's not a true story.

13 THE WITNESS: There are about four or five of
14 them.

15 Q There was a motion made by me to vacate the con-
16 viction of Hyman Raffe.

17 THE REFEREE: What's the question?

18 Q The question is, did you draw up that affidavit?

19 A Can you tell me when the motion was returnable?

20 Q Offhand, no.

21 MR. STRAUS: Objection. It's not in the form
22 of a question.

23 MR. SASSOWER: I can --

24 MR. STRAUS: Hold it, Mr. Sassower. Mr.
25 Sassower gives --

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2 THE REFEREE: I know. Mr. Sassower, you
3 are saying there was an affidavit in opposition.
4 We don't know if there was or not.

5 You didn't ask this witness whether or not
6 he's aware of the fact that an affidavit in op-
7 position was served.

8 Q Mr. Postel --

9 THE REFEREE: Do you know anything about
10 an affidavit in opposition?

11 THE WITNESS: I know about several of them.

12 THE REFEREE: Judge Klein's second --

13 THE WITNESS: If you could tell me when that
14 motion was returnable --

15 THE REFEREE: When was it returnable? Do you
16 have that information?

17 MR. SASSOWER: Either the last week of
18 December or the first week in January.

19 THE REFEREE: December '85 or January '86,
20 is that right?

21 THE WITNESS: It was prepared by me.

22 Q And whose typewriter?

23 MR. STRAUS: Objection. What difference
24 does it make?

25 THE REFEREE: You are not going to get

Whittaker Chambers' typewriter in this case.

A It was either my typewriter or the word processing service that I use.

Q And who mailed it out?

MR. STRAUS: Objection. What is the purpose of this line?

MR. SASSOWER: Because --

THE REFEREE: What's the difference who mailed it out, whether a messenger mailed it out or his wife mailed it out.

A I don't know who mailed it out.

THE REFEREE: He doesn't know who mailed it out. Well, I don't think, Mr. Sassower, looking at you --

MR. SASSOWER: Will you let me finish?

THE REFEREE: I see you are in no position now physically to continue today.

MR. SASSOWER: He hasn't brought the papers and documents here. I want my papers and documents.

THE REFEREE: Sir, you are not going to get any documents until you tell me specifically what documents you want and the relevance.

Then I'll decide.

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2 MR. SASSOWER: I want the agreement made
3 by Mr. Raffe.

4 THE REFEREE: What agreement? You're going
5 around and around and around.

6 MR. SASSOWER: Let me finish.

7 THE REFEREE: What agreement?

8 MR. SASSOWER: The agreement made by Mr.
9 Raffe with the Feltman firm that says that as
10 long as he does certain things, they will not move
11 to confirm the recommendation of fines and incar-
12 ceration by Referee Diamond.

13 THE REFEREE: Irrelevant.

14 MR. SASSOWER: It is?

15 MR. STRAUS: First of all, I'm not sure
16 that there is such an agreement.

17 MR. SASSOWER: You don't know what the rest
18 of the agreement provides.

19 MR. STRAUS: It won't make any difference.

20 MR. SASSOWER: I want to offer it for iden-
21 tification.

22 THE REFEREE: Mr. Sassower --

23 MR. SASSOWER: Judge --

24 THE REFEREE: Mr. Sassower, you have given
25 me a list. You will give me a list of specific --

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2 MR. SASSOWER: I want his time sheets.

3 THE REFEREE: You're not entitled to his
4 time sheets.

5 MR. SASSOWER: I want to -- these dates are
6 wrong that he's quoting. Okay.

7 I want to see -- I want to tell your Honor
8 that he knew all along.

9 THE REFEREE: That what?

10 MR. SASSOWER: That I was the attorney of re-
11 cord.

12 THE REFEREE: I know. He said he knew that
13 you were the attorney of record but he also said
14 that Mr. Raffe told him that in January of 1985
15 he told you "I no longer want you to represent
16 me."

17 MR. SASSOWER: Your Honor, he made that up.
18 Raffe never told him that.

19 THE REFEREE: I never said it was true. I
20 said that's what the witness testified to.

21 MR. SASSOWER: I'm telling you that this is
22 something --

23 THE REFEREE: We'll recess.

24 MR. SASSOWER: -- and Raffe never said it.

25 THE REFEREE: We shall meet again.

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2 MR. SASSOWER: He dictated and Raffé signed
3 it. Raffé never said it.

4 THE REFEREE: We'll adjourn to Tuesday,
5 March 4 at 10 a.m.

6 MR. STRAUS: If your Honor pleases, at
7 this point we now have two witnesses who are on
8 continuing cross-examination.

9 MR. SASSOWER: Who are you bringing in
10 Tuesday so I can try to get --

11 MR. STRAUS: I want to point out at this
12 time that Mr. Sassower was informed on January 30
13 at the very latest that Mr. Postel would be a
14 witness in this proceeding so he's had a month
15 to prepare any materials he wanted for cross-
16 examination, so, it didn't make a bit of differ-
17 ence whether he had a month for Mr. Postel or a
18 week for Mr. Schneider. It's the same situation.
19 He tries to put the onus on the witness for his
20 inadequacies.

21 MR. SASSOWER: I'm entitled to a subpoena.

22 MR. STRAUS: Which witness, Judge, would you
23 like to hear next, since we have two of them on
24 continuing cross-examination.

25 We have Mr. Schneider's who's not concluded.

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2 THE REFEREE: Let's bring Mr. Schneider
3 back Tuesday so we can get through with his
4 testimony before we bring in any new --

5 MR. STRAUS: Mr. Postel, would you be avail-
6 able on --

7 THE REFEREE: We'll have Mr. Postel Tues-
8 day first, then to be followed by Mr. Schneider.

9 MR. STRAUS: With your permission, I'd like
10 to put Mr. Schneider on telephone notice of that
11 because things --

12 THE REFEREE: As long as he's made aware of
13 the fact on telephone notice that he's to be
14 here within a half hour or hour.

15 MR. STRAUS: Certainly, so, Mr. Postel, is
16 it all right with you?

17 THE WITNESS: It will have to be.

18 MR. STRAUS: You're under subpoena, you can
19 tell any court that, that's why.

20 THE REFEREE: If you have anything in the
21 morning, or --

22 THE WITNESS: I have to check. I'll call Mr.
23 Straus tomorrow morning. I think it looks okay.

24 MR. STRAUS: I can arrange for either Mr. --

25 THE REFEREE: If he can't be here in the

1
2 morning, then have Mr. Schneider here.

3 MR. STRAUS: I'll have somebody here.

4 THE REFEREE: All right.

5 MR. SASSOWER: I want to ask you one ques-
6 tion.

7 THE REFEREE: Of me, Mr. Straus or the
8 witness.

9 MR. SASSOWER: Your Honor, I want to ask
10 one question.

11 THE REFEREE: What's the question?

12 MR. SASSOWER: If I mail out subpoenas --

13 THE REFEREE: No, the answer is no, unless
14 I sign them.

15 MR. SASSOWER: I'm telling you, let's think
16 out loud together. If I send them out today,
17 the earliest you will get them is Saturday and
18 assuming that your Honor promptly returns them,
19 I will get them Monday night when I return. If I
20 get them Monday night, I cannot have them served
21 in time.

22 Now, the thing is this, I can tell your
23 Honor that if Mr. Postel brings everything on the
24 case --

25 MR. STRAUS: He's not bringing everything on the

case.

MR. SASSOWER: That's for his Honor to decide.

MR. STRAUS: That's ridiculous.

THE REFEREE: Mr. Postel, would you look through your files and anything that you believe is relevant to the issues as you have heard it up to now, bring it with you, subpoena or no subpoena, all right.

MR. SASSOWER: There's one further question that needs the cooperation --

THE REFEREE: Mr. Straus has no personal vendetta here. There's nothing personal here.

MR. SASSOWER: Judge, don't make assumptions. Okay, your Honor. I have information to the contrary.

THE REFEREE: Do you want to include him too?

MR. STRAUS: Which conspiracy am I a part of? Which one is it, with the judges or with the lawyers?

I'm not sure, but, if your Honor please, I would like a direct offer from Mr. Sassower of what it is he wants, because I don't want Mr. Postel to have to come back again.

THE REFEREE: I know. I said that ten

minutes ago to Mr. Sassower to please give me a list. He says it will take him, he won't be able to get the list up until over the weekend.

MR. SASSOWER: I'll do it tonight but you won't get it until Saturday.

THE REFEREE: That means over the weekend.

MR. SASSOWER: Let me say one thing more before you interrupt because I said it needs the cooperation of Mr. Straus.

My information is that Mr. Postel, and I don't mean to be denigrating or anything, or, he's a single practitioner --

THE REFEREE: May I suggest this?

MR. SASSOWER: May I finish the sentence?

THE REFEREE: Let me suggest this to short circuit it. You send me a list.

MR. SASSOWER: I can tell you right now.

THE REFEREE: That's what we wanted five minutes ago.

MR. SASSOWER: IN order to cross-examine Mr. Postel, I need Mr. Schneider's time records and Mr. Kreindler's time records.

THE REFEREE: That's denied. Go on.

MR. SASSOWER: And their correspondence

because they have better records than him.

THE REFEREE: It's denied.

MR. SASSOWER: Why?

THE REFEREE: Because I say so. It's denied.

MR. SASSOWER: To pin down dates with him.

THE REFEREE: It's not relevant. Pin down what dates?

MR. SASSOWER: The dates that he spoke to them, the correspondence.

THE REFEREE: Spoke to whom?

MR. SASSOWER: To Postel.

MR. STRAUS: He's Postel. The days he spoke to himself?

THE REFEREE: Talked to whom?

MR. SASSOWER: To Kreindler, Relkin.

THE REFEREE: We're not interested in what he said to Kreindler or what Kreindler said to him.

MR. SASSOWER: Judge, your Honor, I say it's relevant.

THE REFEREE: Mr. Postel, the witness, was retained by a Mr. Raffé.

MR. SASSOWER: He was not. This is nonsense. This is sheer nonsense.

1
2 THE REFEREE: Mr. Raffe will be here to
3 testify. You will --

4 MR. SASSOWER: I could knock him out if
5 I had his papers in two minutes.

6 MR. STRAUS: You don't indicate which papers
7 you have.

8 THE REFEREE: All right.

9 MR. STRAUS: May I take it that at this
10 point, that Mr. Postel is not required to bring
11 any papers?

12 THE REFEREE: I would suggest that he look
13 through his records and if he can find any records
14 that, in his opinion --

15 MR. SASSOWER: In his opinion? Could I
16 have his time records at least?

17 THE REFEREE: No.

18 MR. SASSOWER: No?

19 THE REFEREE: No.

20 MR. STRAUS: I think Mr. Postel will
21 try in good faith to comply but I want this
22 limitation placed on it.

23 Mr. Postel should not be required to bring
24 in any records that Mr. Sassower served or was
25 the recipient of.

1
2 MR. SASSOWER: Agreed. If Sassower has
3 copies of them, you certainly don't have to
4 bring them, okay.

5 THE REFEREE: All right, so we made some
6 progress.

7 MR. SASSOWER: That was always a stipulation.

8 THE REFEREE: See you Tuesday at 10 o'clock.

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LIST OF EXHIBITSPETITIONERRESPONDENT

38 id.	P.451	X id.	552
evd.	583		
39 id.	477	Y id	616
39 evidence	479		
40 id.	480		
evidence	484		
41 id.	486		
evidence	491		
42 id.	492		
	487		
43 id.	497		
44 id.	497		
39a evidence	498		
43 evidence	505		
44 evidence	505		
45 id.	506		
evidence	509		
46 id.	511		
evidence	514		
47 id.	514		
evidence	517		
48	524		

LIST OF WITNESSESDIRECTCROSS

Ira Postel	438	487	Voir dire
		533	