

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 :
5 and counselor at law:

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

8 Petitioner, :

9 GEORGE SASSOWER, :

10 Respondent. :
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11 Brooklyn, New York

12 March 4, 1986

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14 B e f o r e:

15 HON. M. MICHAEL POTOKER, ESQ., Referee

16
17 A p p e a r a n c e s:

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

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21
22 ARTHUR BLAUSTEIN
23 Certified Shorthand Reporter
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2 MR. STRAUS: I'd like to -- we mentioned
3 that there were three documents marked as Ref-
4 eree's exhibits on a prior occasion, and I
5 have copies of those here. They were marked as
6 Referee's Exhibits 3, 4 and 5.

7 I'd like to have them re-marked as Referee's
8 Exhibits. These are copies.

9 Exhibit 3 could be a judicial subpoena
10 issued to Kreindler and Relkin.

11 Exhibit 4 was a subpoena issued to Feltman
12 Karesh, Major and Farbman.

13 And, 5, was a letter dated February 21st,
14 1986, addressed to you from me with a copy to
15 Mr. Sassower.

16 THE REFEREE: Mr. Sassower, do you want to
17 look at these documents?

18 MR. SASSOWER: All right.

19 THE REFEREE: All right.

20 MR. STRAUS: Can I have these marked?

21 THE REFEREE: I thought they were.

22 MR. STRAUS: They would be Referee's Exhibits.

23 (so marked)

24 MR. SASSOWER: Your Honor, I -- good morning.
25 I gave some papers to Mr. Straus and I will give a

set to your Honor, and we'll discuss it at the first convenient moment.

THE REFEREE: Pardon?

MR. SASSOWER: Your Honor, I think if we look at the record, and certainly my conversation with Mr. Straus on Friday, Mr. Postel was supposed to return today.

Now I came with three brief cases and it's not complete, and I spent a good part of the last three days trying to get together papers for Mr. Postel, and this is the second or third time that this has happened where Mr. Straus says he's bringing one witness and he comes with a different witness.

I am not --

THE REFEREE: When were the first two times? You say this is the third time.

MR. SASSOWER: The first time -- I said second or third time and I'm trying to think because I've been up pretty much two days in a row.

The first time we had a conference on January 30 and Mr. Straus said he's only going to produce Mr. Raffe and Mr. Postel and I came at

1
2 the first hearing, in fact, before the first
3 hearing, I spoke to Mr. Straus and I asked him
4 who he was going to produce, because I didn't
5 know whether it would be Raffé or Postel, so I
6 could be prepared and he said he wouldn't tell me
7 and he came with Mr. Schneider and I came here
8 completely unprepared for Mr. Schneider.

9 There was another time but I can't recall it.

10 THE REFEREE: Mr. Schneider has already been
11 on the witness stand so you were prepared.

12 MR. SASSOWER: No.

13 THE REFEREE: Suppose he would have concluded
14 his examination that day?

15 MR. SASSOWER: I had papers.

16 MR. STRAUS: Mr. Schneider returned the
17 second day and let me correct the record, when we
18 left --

19 MR. SASSOWER: Let me --

20 MR. STRAUS: May I speak, Judge Potoker?

21 THE REFEREE: Go ahead, Mr. Straus.

22 MR. STRAUS: When we left with Mr. Postel on
23 the stand, it was agreed and on the record that I
24 would speak to both Mr. Postel and Mr. Schneider
25 and determine which of them would find it more

convenient to come back on this appearance.

I contacted both of them and it was agreed that Mr. Schneider would be here.

Mr. Schneider has been on the stand two whole days.

I assume that since there was a one day interval between his first appearance and second appearance, that Mr. Sassower would have had ample time to prepare for his second appearance.

Plus, when Mr. Schneider left after his second appearance, it was with the understanding that, of course, he would return for whatever additional cross-examination Mr. Sassower wanted to conduct.

I specifically told Mr. Sassower that we had not yet decided which of the two witnesses would be coming back today.

In fact, I didn't know until I had spoken to both of them.

Mr. Schneider is here, has been here since 10 o'clock this morning and we're ready to continue with this cross-examination.

Mr. Sassower has had, I would say, more than a week to prepare for the last time -- since the

the last time Mr. Schneider was on the stand.

MR. SASSOWER: Your Honor, papers for Mr. Schneider were specifically left behind and if Mr. Straus wanted to call Mr. Schneider today, I think common decency would have mandated that he would have telephoned me yesterday and said Mr. Schneider is coming.

I brought a whole stack of stuff for Mr. Postel and now we have Mr. Schneider.

MR. STRAUS: Are you representing you ever asked me which witness would be here today?

Are you representing that to Judge Potoker?

MR. SASSOWER: You said it on the record.

MR. STRAUS: Did you ask me which witness was going to be here today?

MR. SASSOWER: You said it on the record.

MR. STRAUS: I'll rest on the record of the last appearance since either witness.

MR. SASSOWER: On Friday --

MR. STRAUS: I'm not going to dispute it with you.

MR. SASSOWER: On Friday, you sent out this letter to me, a copy of a letter to me and you told me, not in those many words, clearly, Mr.

Mr. Postel is coming today.

MR. STRAUS: That's absolutely untrue.

THE REFEREE: A letter --

MR. SASSOWER: Yes.

THE REFEREE: Do you have a copy of the letter?

MR. SASSOWER: Yes, I have. It was addressed to your Honor and I'll pull out a copy.

MR. STRAUS: I think it should be marked as a Referee's exhibit as well.

MR. SASSOWER: I don't particularly care for these --

MR. STRAUS: I think it should be marked.

THE REFEREE: February 28, 1986.

MR. SASSOWER: I got it yesterday afternoon.

THE REFEREE: Yes. There is no reference in there about --

MR. SASSOWER: No, in a conversation that preceded that letter --

MR. STRAUS: Absolutely not true.

MR. SASSOWER: Okay, okay. In fact, the first time, before we had the first hearing, I asked Mr. Straus who you're producing or was it the second hearing and he said "I'm not going to

1
2 tell you. Okay.

3 MR. STRAUS: The need for additional wit-
4 nesses only arose because of Mr. Sassower's re-
5 fusal to acknowledge that certain documents had,
6 in fact, been served.

7 That is why we needed additional witnesses.

8 THE REFEREE: Mr. Sassower, are you ready
9 to go ahead?

10 MR. SASSOWER: As far as I can.

11 THE REFEREE: With your cross-examination
12 of Mr. Schneider, as far as you can and when you
13 reach an impasse or a point where you can't go
14 any further because you don't have your documents,
15 we'll have a continuance.

16 MR. STRAUS: If your Honor pleases, I think
17 that's -- Mr. Schneider -- this is the third day
18 Mr. Schneider has been here.

19 Mr. Sassower had the obligation to be ready
20 and should have been ready after the first time.

21 THE REFEREE: We'll see if we need it or
22 not. Go ahead.

23 MR. SASSOWER: Your Honor, an admission of
24 service, please --

25 MR. STRAUS: Judge Potoker, I would ask Mr.

1
2 Sassower to state on the record what documents
3 he maintains he needs to conduct a cross-exami-
4 nation of Mr. Schneider, which are not in evi-
5 dence, or which he did not have in his possession
6 on some prior occasion, and could have brought
7 with him today, what documents it is that he
8 thinks he needs.

9 MR. SASSOWER: First of all, Mr. Straus,
10 my entire head is attuned to Mr. Postel.

11 I wasn't thinking in terms of Mr. Schneider,
12 all right?

13 Now, your Honor, first of all, before I
14 answer Mr. Straus' question, the best I can,
15 the last time we were here, Miss Brennan was here
16 from Mr. Schneider's office and I think I put
17 on the record that she had brought me a copy of
18 the record on appeal which your Honor asked Mr.
19 Schneider to bring the other day.

20 In fact, I think I stated on the record that
21 she brought me two copies and I offered one to
22 Mr. Straus.

23 It was only yesterday that I looked at it
24 and it's a new appeal by Mr. Schneider, so that
25 old record on appeal -- in fact, I only --

1
2 Mr. Schneider called me up yesterday and asked
3 me how much time I wanted to argue in the Appel-
4 late Division that I realized, I looked at it
5 and realized that it was not the record on appeal
6 that his Honor asked about, so, I want the record
7 to state that I don't have that record.

8 To answer your question, Mr. Straus the best
9 I can, not that I'm --

10 THE REFEREE: Mr. Sassower, this matter was
11 set for hearing.

12 MR. SASSOWER: Yes.

13 THE REFEREE: I have a right to assume
14 that when we set a matter down for hearing,
15 that you will be ready.

16 MR. SASSOWER: I was told Mr. Postel was
17 going to be here.

18 THE REFEREE: I don't recall anyone telling
19 you that Mr. Postel was going to be here.

20 MR. SASSOWER: I have a specific recollect-
21 ion and, in fact, I spoke to Mr. Straus on Friday.

22 MR. STRAUS: I never told you --

23 THE REFEREE: I suggest, Mr. Sassower, don't
24 speak to anyone unless it's on the record.

25 MR. SASSOWER: I think this was on the

record, your Honor. That's my recollection.

MR. STRAUS: Absolutely not.

MR. SASSOWER: Okay. The stenographer can tell us if he's got those minutes here.

MR. STRAUS: He's not going to look at them now.

THE REFEREE: Mr. Schneider, would you resume the witness stand?

MR. STRAUS: Your Honor, I'd like to move forward obviously, but I think there's a problem here.

I think that Mr. Sassower is engaging in tactics for the purpose of bringing witnesses back day after day, disrupting their practice, just overburdening them.

If he says that he needs records which he keeps saying, what records are they that he doesn't have, hasn't been served with or hasn't authored?

Why do we have to keep getting this continual nonsense about his needing records which he has in his possession?

THE REFEREE: You may recall, Mr. Straus, that Mr. Schneider's testimony was interrupted by his -- he was unavailable on a date and that's

1
2 why Mr. Postel was called, isn't that right?

3 MR. STRAUS: Yes, that was scheduled, no
4 question about it.

5 THE REFEREE: I realize that, so there was
6 an interruption.

7 Go ahead, Mr. Sassower.

8 (Mr. Schneider takes the stand)

9 MR. SASSOWER: May I ask your Honor to give
10 me ten minutes and let me go back to Mr.
11 Schneider's testimony and refresh my recollect-
12 ion and get some documents together, to the ex-
13 tent that I have them and I don't even remember
14 where I left off with Mr. Schneider.

15 MR. STRAUS: If your Honor pleases, this
16 matter was scheduled to resume at 10 this morning.

17 MR. SASSOWER: Ten-thirty.

18 MR. STRAUS: My understanding was ten
19 o'clock.

20 THE REFEREE: I recall, as I told you earl-
21 ier, I recall Mr. Sassower stating that he would
22 be here at about 10:30, he had another matter.

23 MR. STRAUS: I would defer to your Honor's
24 recollection.

25 However, it is now eleven o'clock. The

witness has been here since ten o'clock and has yet to be asked a question.

THE REFEREE: Mr. Sassower arrived at 10:42 a.m.

You want ten minutes? All right.

MR. SASSOWER: I want to see where I left off.

THE REFEREE: Sir, if you want ten minutes I'll give you ten minutes.

MR. SASSOWER: Yes.

(Short break ensues)

THE REFEREE: Ready, Mr. Sassower?

MR. SASSOWER: Not really but I'll try the best I can.

THE REFEREE: Ten minutes is now fifteen minutes.

You are still under oath, sir.

D O N A L D F. S C H N E I D E R, recalled, testified as follows:

CROSS-EXAMINATION

BY MR. SASSOWER:

Q Mr. Schneider, his Honor asked, if I recall, you to bring the records on appeal that you took from Judge Sinclair's order and Judge Steven's order.

As I recall, did you bring a copy?

A We went through this the last session, Mr. Sassower.

You handed me a copy of the record and asked my questions from it.

I also told you that I could not find my office copy.

You cross-examined me from the record on appeal which you're asking me --

Q I told you that it was not complete, okay? You don't have extra copies in your office.

A No, I don't.

Q Did you bring your time sheets, disbursements, records?

A As I understand it, the subpoena purported to be served on my firm for such records was quashed Mr. Sassower.

MR. STRAUS: If your Honor please, I would ask that Mr. Sassower be directed to ask questions of this witness pertaining to direct examination.

There is no direction by the Referee that the witness produce any of the records.

Mr. Sassower can ask about three thousand records.

THE REFEREE: The witness answered properly.

Q Did you bring any papers with you?

A I was not directed to bring any papers with me.

The only ones I did bring are motion papers that I received in the mail from you yesterday in violation of various court orders.

MR. SASSOWER: I'll move to strike that out.

That's your conclusion.

A You asked me if I brought papers.

Q Mr. Schneider, do you have any decision of any judge which says that George Sassower has violated the order of Judge Hilda Schwartz?

MR. STRAUS: Objection. The orders are all in evidence, your Honor.

MR. SASSOWER: Excuse me.

MR. STRAUS: The witness does not have to give his conclusion.

MR. SASSOWER: No, a judge saying it, I don't care about his conclusion.

MR. STRAUS: The orders are in evidence.

THE REFEREE: Do you have any such copy?

THE WITNESS: Your Honor, I answered that question under oath last time. I stated that I believe there was a decision of Judge Greenfield

which referred to that.

Q And you didn't bring that?

A I was not directed to bring it, sir. You have a copy of it.

MR. STRAUS: It's also in evidence.

Your Honor, is there any need to have the witness respond to documents in evidence?

THE REFEREE: It's in evidence as Petitioner's Exhibit 4.

Q Is there any other order or decision of any justice?

MR. SASSOWER: May I see Judge Greenfield's order?

Q Is there any other judge of the Supreme Court --

MR. STRAUS: Objection. All of these questions were asked and answered on more than one occasion on Mr. Schneider's last appearance on cross-examination.

THE REFEREE: Objection overruled.

Q Is there any other judge that stated that George Sassower violated Judge Hilda Schwartz' order, yes or no?

A There have been a number of decisions which expressly --

Q Yes or no.

1
2 THE REFEREE: Let him answer.

3 A There have been a number of decisions that have
4 expressly recognized that despite your discharge by Judge
5 Schwartz as attorney for Puccini, you continued to purport
6 to represent Puccini after that order and, in fact, you
7 were convicted of numerous counts of criminal contempt
8 for representing Puccini after your discharge in violation
9 of court orders.

10 Q Sir, can you tell the Court any decision or order
11 of a judge of the Supreme Court --

12 MR. STRAUS: I think he's answered the
13 question.

14 MR. SASSOWER: These are vague things. I
15 want to know dates, times, places. I want to
16 know judges. I don't want vague generalities.

17 Am I not entitled to that?

18 THE REFEREE: The Grievance Committee has
19 filed with this petition, copies of orders of
20 judges.

21 MR. SASSOWER: But none of them say I violat-
22 ed Judge Schwartz' order.

23 THE REFEREE: The witness just responded
24 that, yes, that Judge Greenfield's order --

25 Q I show you Judge Greenfield's order and would you

read to the Court --

THE REFEREE: It's already in evidence as
Petitioner's Exhibit 4.

Q Could you read that portion of the order which
states that George Sassower violated Judge Schwartz'
order?

A Mr. Sassower, I did not testify -- don't put
words in my mouth -- I did not testify that it was Judge
Greenfield's order.

I said he rendered a decision.

Q Do you have the decision here?

A I was not asked to bring it, sir.

MR. SASSOWER: Do you have Judge Greenfield's
decision?

THE REFEREE: Pardon?

MR. SASSOWER: May I have --

MR. STRAUS: Is it an exhibit in evidence?

THE REFEREE: It's an exhibit in evidence.

MR. SASSOWER: It's not in evidence.

Where is the decision? May I have the decision?

MR. STRAUS: I don't believe I have it and
I'm certainly not -- I don't know what the purpose
is.

What we have offered in evidence is the

limits that we have placed on ourselves, your Honor, I don't know the purpose of going beyond.

If there is no violation based on what we have offered in evidence, what is the point of this?

THE REFEREE: Mr. Sassower, are you implying that Judge Greenfield's decision contradicts his order?

MR. SASSOWER: No. I'm trying to find out -- I'm trying to limit -- okay -- I'm trying to limit and find precisely -- my papers state your Honor, and let me not go off on a tangent, let me ask the next question, then I'll make my point.

Q Mr. Schneider, how many motions, approximately, have you made in the Supreme Court, New York County wherein you have stated George Sassower has violated Judge Hilda Schwartz' order?

MR. STRAUS: If your Honor pleases, I object on these grounds.

If there's been a violation of Judge Schwartz' order it is our obligation and our burden to carry it with respect to the proof.

This witness has never testified on direct

1
2 examination as to which orders were violated by
3 which actions.

4 He testified that orders were received or
5 were entered by judges.

6 He identified -- they were received in evi-
7 dence.

8 He also testified that certain papers were
9 filed by Mr. Sassower.

10 He did not venture an opinion as to whether
11 an order was violated by a particular action, and,
12 in fact, we have submitted over and over again
13 that it's your Honor's obligation to look at the
14 proof and determine if there have been, in fact,
15 violations.

16 In addition, we have submitted papers
17 pertaining to four convictions for criminal
18 contempt, all of which are binding. They have
19 all been affirmed on appeal and there is no
20 point to simply going back over an area which
21 this witness is not required to respond to on
22 cross-examination, and he's done it five or six
23 times already.

24 MR. SASSOWER: I'm going to get to the point.
25

1 THE REFEREE: Let's get to the point.

2 MR. SASSOWER: It's going to be done.

3 THE REFEREE: No, no, you keep telling me
4 and you keep telling me and that's all you tell
5 me, and, you're not.

6 MR. SASSOWER: I'm saying this --

7 THE REFEREE: Let me know specifically what
8 you are saying with respect to the question that
9 you were putting to this witness.

10 MR. SASSOWER: I say I am not aware of any
11 judge ever saying directly or indirectly that I
12 violated Judge Schwartz' order.

13 THE REFEREE: That's your position.
14 The Grievance Committee has indicated otherwise.

15 MR. SASSOWER: Show me where it says so.

16 THE REFEREE: If they don't prove it to my
17 satisfaction, that charge will be dismissed.

18 MR. SASSOWER: Well, your Honor, so, I'm
19 saying, your Honor, I go one step further, I go
20 one step further and I say that if that charge
21 was made twenty or twenty-five times, and not one
22 judge agreed with Mr. Schneider, then your Honor
23 cannot --

24 THE REFEREE: Sir, that's what you are saying.
25

MR. SASSOWER: Yes.

THE REFEREE: The Grievance Committee says otherwise.

MR. SASSOWER: Then am I not --

THE REFEREE: Do you have a copy of it? You have a copy of the charges filed?

MR. SASSOWER: They don't say what was violated.

THE REFEREE: All right, if they don't, if you think they are defective on that score, you will make your motion at the proper time.

MR. SASSOWER: Then let me ask this witness.

THE REFEREE: What has this to do with Mr. Schneider?

MR. SASSOWER: I'll tell you why.

THE REFEREE: That's what you indicated earlier and still I'm waiting.

MR. SASSOWER: I would say, your Honor, because to quote, your Honor, you are not here to circumvent or overrule somebody else.

I would say that if Mr. Schneider made the assertion that twenty-five judges or in twenty-five instances that I violated Judge Schwartz' order and not one of them supported him, then I

1
2 say your Honor, using your Honor's reasoning,
3 after he had a full opportunity to make a submis-
4 sion, that your Honor can't go around that order.
5 That's your Honor's reasoning.

6 THE REFEREE: What's your question?

7 Q The question is, Mr. Schneider, approximately
8 how many motions have you made?

9 MR. STRAUS: Objection.

10 THE REFEREE: That's not, that's not the
11 question that you were addressing yourself to, sir.

12 MR. SASSOWER: Judge, let me finish the
13 question.

14 THE REFEREE: What's the question? What's
15 the relevance as to how many motions he made?

16 MR. SASSOWER: Because none of the judges
17 agreed with him, so I want to know how many times
18 he made that motion and if he can't show one order,
19 one agreement, that's the point, your Honor.

20 MR. STRAUS: If your Honor pleases, you have
21 ruled on this.

22 THE REFEREE: I know that. Can you answer
23 the question?

24 A I don't recall how many such motions I made. I
25 don't believe that any time I made a motion charging

violation of this that it was ever denied.

THE REFEREE: Next question.

Q Let's talk about Judge Greenfield's order. Do you remember that motion being made?

THE REFEREE: That's the order of January 25, 1983, Petitioner's Exhibit 4?

MR. SASSOWER: Yes.

THE REFEREE: According to Exhibit G of the pleadings --

MR. SASSOWER: Yes.

Q Were there two simultaneous motions requesting the same relief, yes or no?

A I believe there were.

Q Was there one motion made in the Appellate Division and was there one motion made in the Supreme court, yes or no?

A I believe so.

Q In the motion that you made -- and, they were submitted almost simultaneously, right?

A I don't know what almost simultaneously means, but they were.

Q Within a day?

A I don't know if that that's true or not but they were submitted within a relatively short period of time.

1
2 Q Did that motion to the Appellate Division ask
3 for the same relief that you asked for in the Supreme
4 Court essentially?

5 A I don't believe so. I asked the -- the Appellate
6 Division has separate jurisdiction from the Supreme Court.

7 What we were asking the Appellate Division to
8 do is to enjoin --

9 Q Have you got that paper?

10 THE REFEREE: Wait until he completes his
11 answer.

12 MR. SASSOWER: I would prefer if he brings
13 the paper here.

14 THE REFEREE: I'd prefer that he completes
15 his answer because you asked the question.

16 THE WITNESS: Mr. Sassower had taken legal
17 action on behalf of Puccini both in the Appellate
18 Division and in Special term and that is why
19 we made separate motions to the Appellate Division
20 to enjoin Mr. Sassower from representing Puccini
21 before that court and a separate motion before
22 Special Term asking that Mr. Sassower be enjoined
23 from purporting to represent my client in that
24 court on proceedings that were before it.

25 Q In your papers to the Appellate Division, did you

1
2 advise the Appellate Division either in the motion papers
3 or in the cover sheet where they ask the question, about
4 the proceedings in Supreme Court --

5 MR. STRAUS: Objection.

6 THE REFEREE: What, what proceedings?

7 MR. STRAUS: Whatever they are, it's going
8 behind the order which we can't do.

9 He's now asking for what papers were submit-
10 ed.

11 THE REFEREE: What proceedings are you talking
12 about?

13 MR. SASSOWER: I'm saying that in his papers
14 to the Appellate Division he may ask for the
15 same relief.

16 THE REFEREE: He just got through telling
17 you --

18 MR. SASSOWER: You asked me, your Honor.
19 He's absolutely wrong.

20 THE REFEREE: He's the one that's being --

21 MR. SASSOWER: Right, but he hasn't got the
22 papers here.

23 THE REFEREE: So let's not make any speeches.

24 MR. SASSOWER: You asked me a question.

25 THE REFEREE: Cross-examination.

1
2 Q Did you mention in your papers to the Appellate
3 Division of an application in the Supreme Court, yes or no?

4 MR. STRAUS: Objection. Why, at this point?

5 MR. SASSOWER: I'm --

6 MR. STRAUS: Objection.

7 THE REFEREE: Overruled.

8 MR. STRAUS: If your Honor pleases, are we
9 going to go behind every order now?

10 THE REFEREE: No, let's get through with
11 this point.

12 MR. SASSOWER: Judge --

13 THE REFEREE: No, sir, please.

14 MR. SASSOWER: You don't know what the point
15 is, you really don't.

16 THE REFEREE: If I don't know what the
17 point is, then you're not making yourself clear.

18 I know what point you're making, sir, and
19 this witness has already answered it but I'm
20 permitting you to ask it again and I'll permit
21 him to answer it again.

22 THE WITNESS: Do you want me to answer that
23 question?

24 THE REFEREE: Let him answer the question.

25 Q Answer the question.

1
2 A I don't recall precisely what we put in papers
3 that were served four years ago.

4 Q Was an understanding reached in the Appellate
5 Division --

6 MR. STRAUS: Objection.

7 THE REFEREE: Sustained.

8 Q Yes or no.

9 THE REFEREE: Sustained.

10 Q After we left the Appellate Division within
11 a day or two, did you serve me with some papers in Supreme
12 Court, New York County, signed by Justice Sinclair?

13 MR. STRAUS: Objection.

14 THE REFEREE: Overruled.

15 A I don't know what you're talking about.

16 Q Did you serve me with an order to show cause?

17 A Mr. Sassower, in four years of litigation --

18 Q Yes or no.

19 MR. SASSOWER: Your Honor, what I'm driving
20 at --

21 THE REFEREE: Mr. Sassower, the witness
22 says he doesn't know what you're driving at,
23 and you're telling him he knows what you're driving
24 at.

25 Q Did you serve me with some papers after we left

1
2 the Appellate Division which contained in them a stay pend-
3 ing hearing and determination, yes or no?

4 THE REFEREE: Of what?

5 MR. SASSOWER: Of something. I don't remem-
6 ber.

7 MR. STRAUS: Objection.

8 THE REFEREE: I want to know what.

9 Q Of whatever you're alleging, did it contain a stay
10 pending hearing and determination?

11 MR. STRAUS: Objection.

12 THE REFEREE: Of a matter before the Appel-
13 late Division?

14 MR. SASSOWER: No, of a matter before the
15 Supreme Court.

16 MR. STRAUS: Objection, if your Honor please.
17 Please allow me to be heard on this point.

18 We're now going --

19 MR. SASSOWER: He doesn't know what I'm talk-
20 ing about.

21 THE REFEREE: Nobody knows what they are
22 talking about except you.

23 You shouldn't --

24 MR. SASSOWER: He doesn't know what he's
25 talking about.

1 THE REFEREE: You shouldn't make a remark
2 like that. You're the only one.
3

4 MR. STRAUS: At this juncture, your Honor,
5 I think that whatever the point Mr. Sassower has
6 in mind is both immaterial and irrelevant to
7 these charges.

8 If you're going to permit Mr. Sassower to
9 go into every document that was filed by MR.
10 Schneider and every document filed by every other
11 witness in the course of this six years of liti-
12 gation, this will be as never ending as the
13 litigation which Mr. Sassower is bringing on
14 behalf of Puccini.

15 He's charged with violation of court orders.

16 We've put evidence in.

17 Now he's going to ask the witness what other
18 papers did he submit to reach this order, and then
19 he's going to cross-examine him on the basis
20 for putting those papers in.

21 I submit, your Honor, that you have already --

22 MR. SASSOWER: How do you know --

23 MR. STRAUS: Let me finish.

24 I submit that you have already ruled that
25 he did not have -- on more than one occasion,

1
2 and you have bent over backwards allowing Mr.
3 Sassower to repeat himself and to repeat himself
4 again and to repeat himself a third time and now
5 he's going to go through a same area on which he
6 was foreclosed three times before and this time
7 you will allow him to do it because simply by
8 virtue of his doing it over and over again, he
9 wins the right to do it.

10 THE REFEREE: Objection is overruled. Answer
11 the question.

12 The Court Reporter will read back the last
13 question.

14 MR. SASSOWER: May we shorten it? I'll change
15 it, slightly.

16 THE REFEREE: You want to withdraw the quest-
17 ion?

18 MR. SASSOWER: I'll change it slightly.

19 Q Mr. Schneider, did you serve me papers signed
20 by Judge Sinclair which provided for a stay pending hearing
21 and determination while the original was only for a stay
22 pending hearing?

23 MR. STRAUS: Objection.

24 THE REFEREE: Stay of what?

25 MR. SASSOWER: A stay of whatever they allege.

THE REFEREE: Objection sustained. Next question.

Q Did I meet you in Supreme Court, Special Term, Part 1 on a return date?

MR. STRAUS: Objection.

A Of what?

THE REFEREE: Overruled.

A Mr. Sassower, there have been over three hundred dates and I don't know what you're talking about.

Q You don't know? Don't you remember me walking out because there was a stay pending determination and you said you will stay there and then when I went out you made an application to Judge Greenfield?

MR. STRAUS: Objection.

THE REFEREE: Yes or no.

A I don't know what you're talking about.

Q You don't know what I'm talking about. Do you remember a complaint being made by the fact that you had served me papers which did not conform to the original? Yes or no.

MR. STRAUS: Objection.

THE REFEREE: Sustained.

MR. SASSOWER: On what grounds, your Honor?

THE REFEREE: Sustained. Next question.

We went through this time and time again.

MR.SASSOWER: We never reached this subject.

THE REFEREE: Next question.

Q Did any judge of the Supreme Court --

MR. SASSOWER: Withdrawn.

Q Did you ever charge me in any motion in the
Supreme Court with violating Judge Greenfield's order?

MR. STRAUS: Objection.

THE REFEREE: Sustained.

Q Yes or no.

THE REFEREE: Sustained.

MR. SASSOWER: May I know on what grounds?

THE REFEREE: Sir, it's the Grievance
Committee that filed the charges, not Mr. Schneid-
er.

MR. SASSOWER: I'm saying to the Supreme
Court judges.

THE REFEREE: Supreme Court judges? We have
Judge Greenfield's order. It's Petitioner's
Exhibit 4 in evidence. It will speak for itself.

MR. SASSOWER: But I'm saying that matter --

THE REFEREE: You want to go behind it.

MR. SASSOWER: No.

THE REFEREE: You want to lead up to all

1 motions before and after.

2 MR. SASSOWER: No, Judge. I'm saying this,
3 your Honor --

4 THE REFEREE: I've sustained the objection.

5 MR. SASSOWER: May I make the record?

6 I want to bring out that literally on
7 twenty or thirty occasions --

8 MR. STRAUS: Objection.

9 MR. SASSOWER: This is an offer of proof.

10 On twenty or thirty occasions, Mr. Schneider
11 made various motions contending that I violated
12 Judge Greenfield's order and not a single judge
13 found that I did.

14 THE REFEREE: Next question.

15 MR. SASSOWER: May I prove that point?

16 THE REFEREE: No, no, no, you are not a
17 witness. Go ahead, sir.

18 MR. SASSOWER: I want to prove it through the
19 witness.

20 THE REFEREE: Next question. You just said
21 you wanted to make a statement for the record, an
22 offer of proof.

23 MR. SASSOWER: An offer of proof.

24 THE REFEREE: I sustained the objection.
25

1
2 Q I show you this document and ask you who prepared
3 it?

4 MR. STRAUS: Mark it for identification.

5 THE REFEREE: That's Respondent's Exhibit Z
6 for identification.

7 (So marked)

8 Q Did your office prepare those papers?

9 A When you say prepared, do you mean type or author?

10 Q Let's say author.

11 A No, I don't believe so.

12 Q Did you type those papers?

13 A I can't answer that question; it's possible.

14 There was --

15 Q Yes or no.

16 THE REFEREE: You want an honest answer?

17 MR. SASSOWER: I'd like his office records.

18 THE REFEREE: He's looking at the document.

19 A There was one occasion when Mr. Postel, Mr. Raffe's
20 attorney --

21 Q Just a second, I don't want an explanation.

22 MR. STRAUS: Objection. Mr. Sassower, he has
23 a right to answer. You have asked the question.

24 If you don't like the answer --

25 MR. SASSOWER: I asked if his office typed it.

MR. STRAUS: He's explaining.

MR. SASSOWER: I want yes or no or he doesn't know, that's all, that's what I'm entitled to.

THE REFEREE: Yes or no.

A I don't know.

THE REFEREE: Next question.

Q Would your office records show who typed it or not?

A No.

Q When for the first time did you meet Ira Postel?

A I believe in the summer of 1985.

Q When was that, what month, what day?

A I believe there was a habeas corpus proceeding that you brought before Federal Judge Lowe on behalf of yourself and Mr. Raffae and Mr. Raffae appeared in court with Mr. Postel who was then his attorney and I met him on that occasion.

Q That was for the first time.

A I believe so.

Q When was the first time you had a conversation with him?

A Sometime prior to that.

Q How long prior thereto?

A Sometime during the summer of '85 after Mr. Raffae

discharged you as his attorney.

Q No, that's a conclusion. When was it that you met Mr. Postel for the first time?

A I just testified.

MR. STRAUS: Asked and answered.

THE REFEREE: He just said in the middle of July.

THE WITNESS: No. What I testified, I met him at a habeas corpus proceeding.

Q That was in August.

MR. STRAUS: He answered the question.

THE REFEREE: It was in the summer of '85.

THE WITNESS: Correct.

THE REFEREE: The summer of '85.

Q Would your records indicate when you first spoke to him? The time records.

A I don't know.

Q How long did you speak to him, when you first met him?

A When I first spoke to him or first met him in person?

Q When you first spoke to him.

A I don't recall.

Q What was the conversation about, just the subject?

1
2 A He indicated that he had been retained by Mr.
3 Raffe in connection with the Puccini --

4 Q Don't indicate what he said.

5 THE REFEREE: You asked the question.

6 MR. SASSOWER: Not that he indicated. What
7 he said and what you said.

8 THE REFEREE: That's not the question you ask-
9 ed.

10 A Mr. Postel indicated that Mr. Raffe was consider-
11 ing retaining him in connection with all Puccini related
12 litigation and he was calling to find out who had been
13 going on in the case.

14 Q What did you tell him?

15 A I told him, I think, what had been going on in
16 the case.

17 THE REFEREE: At that point you were still
18 representing the receiver.

19 THE WITNESS: I've represented the receiver
20 since 1982.

21 Q What did you tell him?

22 A Mr. Postel was particularly interested in the
23 circumstances under which Mr. Raffe had been ordered
24 incarcerated and I explained to him that the history of
25 your violations of court orders on behalf of Mr. Raffe

1
2 which resulted in that contempt order and various other
3 orders of the court because Mr. Postel's apparent interest
4 at that time was trying to keep Mr. Raffe out of jail.

5 Q When was the next time you spoke to him?

6 A I don't recall specifically. I've had a number
7 of conversations with Mr. Postel since he's been represent-
8 ing Mr. Raffe.

9 Q No, no, no. Did you ever receive a stipulation
10 substituting -- of substitution for Mr. Postel, yes or no?

11 A There would be no need for a stipulation of
12 substitution.

13 THE REFEREE: No. Did you, yes or no?

14 THE WITNESS: Did I receive one? No.

15 Q Did you ever receive an order of the court indi-
16 cating that Mr. Postel is the attorney for Mr. Raffe, yes
17 or no?

18 A Yes, there was a decision.

19 Q An order of the court.

20 MR. STRAUS: He's answering the question.

21 THE REFEREE: He said yes.

22 A There was a decision, certainly, where you had
23 brought a motion on behalf of Mr. Raffe and Mr. Raffe
24 opposed it on the ground that you no longer represented
25 him and the court in its decision specifically made mention

of the fact that you were no longer his attorney.

Q When was that?

A Within the last few months.

Q When?

A Within the last few months.

Q Who was the judge in that case?

A Don't recall.

Q Do you know what papers were submitted by Mr. Postel?

A On that particular motion?

Q Yes.

A I don't recall.

Q Do you know who typed those papers?

A No, certainly not my office.

Q Let's see. Do you know the name of the case?

A You want my recollection out of the thirty-five lawsuits?

My best recollection is that that case was started by you, the original caption was George Sassower and Hyman Raffé against the law firm of Arutt and Nachamie and my firm and after it was dismissed as to my firm, you unilaterally changed the caption. I don't remember what you changed it to.

That was the first lawsuit you brought, Mr.

Sassower, dating back to 1982 after you were denied permission to bring that lawsuit by a Supreme Court judge.

Q Did you bring -- that's your conclusion, right?

MR. STRAUS: Objection. That was his answer to your question, sir.

THE REFEREE: Sustained.

Q Were you part of that action in 1985, yes or no?

A The action had been dismissed as to my firm but you disregarded that and served motions on me so technically under the law, I was not a party to the case; it had been dismissed as to my firm.

Q Let me ask you something, here is a notice to produce.

MR. SASSOWER: Would you mark it, please?

THE REFEREE: That will be Respondent's AA.

(Received, so marked)

Q Were you served with a copy of those documents, that document, yes or no?

A I don't know if my firm was served with it. I think I've seen this in the past.

Q Were you served --

MR. STRAUS: Objection. He's answered.

THE REFEREE: He's answered.

MR. SASSOWER: He's seen it. I don't care

1
2 if he saw it.

3 MR. STRAUS: He's answered the question.

4 If you have a question, --

5 MR. SASSOWER: What's the answer?

6 THE REFEREE: The answer was?

7 THE WITNESS: I don't recall if you served
8 me as a part. I don't recall the precise cir-
9 cumstances under which I did see this document.

10 Q Did your firm put in any response to that motion?

11 MR. STRAUS: Objection at this point.

12 THE REFEREE: Mr. Sassower, again, what is
13 the relevance of this cross-examination?

14 MR. SASSOWER: I'd like to have this paper
15 marked.

16 THE REFEREE: Pardon? I'll withdraw it.

17 MR. SASSOWER: I'll withdraw the question.

18 Q Let me ask you this question. Were you a --
19 in 1985, were you a party to this action?

20 MR. STRAUS: Which action?

21 MR. SASSOWER: The 1982 action.

22 A I previously testified that that action was
23 dismissed as to my firm.

24 Q So your firm was not a party to that action in
25 1985?

1
2 A You treated my firm as a continuing party to that
3 action by serving papers on us.

4 Q Where? Show us.

5 MR. STRAUS: I have -- I haven't objected
6 on the grounds of relevancy.

7 THE REFEREE: The action was dismissed so
8 he must have been served.

9 MR. STRAUS: Which means that the objection
10 on the grounds of relevancy, it seems to me,
11 would be well-taken, if your Honor pleases.

12 THE REFEREE: I can allow a certain amount
13 without objection, but, Mr. Sassower, next ques-
14 tion.

15 Q Did you make any motions or have any activity
16 in this case as a party-defendant in 1985, yes or no?

17 A Mr. Sassower, I can't answer it any differently
18 than I have answered the question before.

19 Q I've asked --

20 A Let me finish. The action was dismissed as to my
21 firm prior to 1985 and you continued to seek relief against
22 us in that case subsequent to the dismissal.

23 Q In 1985, did I seek any relief against your firm,
24 yes or no.

25 MR. STRAUS: Objection. It's irrelevant.

THE REFEREE: Before the dismissal or after the dismissal.

MR. SASSOWER: In 1985, I want to bring it up-to-date.

MR. STRAUS: Objection.

Q In 1985, did I seek any relief against your firm, yes or no?

A After the dismissal you did seek relief against my firm but I don't recall if it was in 1983, '84, '85 or all those years. I don't recall specifically.

Q Mr. Schneider, will you please bring any documents you have, the firm has of any relief that I asked against your firm or served your firm with any papers in 1985?

Will you bring it the next time?

MR. STRAUS: Is your Honor directing that?

THE REFEREE: I'm not directing anything.

MR. STRAUS: Because there seems to be some confusion on Mr. Sassower's part.

He puts a question and thinks that that's a direction to a witness.

MR. SASSOWER: I'm asking your Honor to direct him.

THE REFEREE: To bring what documents, for

1
2 what purpose?

3 MR. SASSOWER: To show there was no activity
4 with his firm on this case for at least two years.

5 MR. STRAUS: So this would be evidence per-
6 taining to a point which is in no way relevant to
7 the charges.

8 This is what happens when we get off track.

9 MR. SASSOWER: You don't know what the next
10 question is.

11 MR. STRAUS: I don't have to hear another
12 question.

13 You're way off track, Mr. Sassower. It has
14 nothing to do with the charges.

15 MR. SASSOWER: Mark this as an exhibit,
16 please.

17 Q By the way, who is the attorney of record in that
18 case?

19 (Received, marked BB for identification)

20 THE REFEREE: Question?

21 Q Did your office prepare this document?

22 MR. STRAUS: Objection. It's totally irrele-
23 vant.

24 THE REFEREE: Let me see it, please.

25 MR. STRAUS: If your Honor pleases, if the

1
2 answer were to be "yes," in what way would that
3 prove or disprove or tend to prove or disprove
4 any of the allegations which are contained in the
5 petition? That would seem to be the appropriate
6 question.

7 That's why it's neither relevant nor material.

8 THE REFEREE: What's the relevance of the
9 discontinuance?

10 MR. SASSOWER: May Mr. Schneider be excused,
11 discontinued, excused?

12 THE REFEREE: Why does he have to be excus-
13 ed? He may not be excused. No reason to
14 excuse him.

15 Q Was --

16 THE REFEREE: Ask a question in relation
17 to this document, Respondent's Exhibit BB for
18 identification.

19 Q Did your office prepare this?

20 THE REFEREE: What's --

21 MR. STRAUS: Objection.

22 THE REFEREE: -- what's the relevance?

23 MR. SASSOWER: I can't tell it in front of
24 your Honor and Mr. Schneider.

25 THE REFEREE: That's a stipulation of dis-

continuanace. It speaks for itself.

MR. SASSOWER: Judge, will you please let me ask a couple of questions?

THE REFEREE: Sir, will you look at it? Do you know anything about this document?

THE WITNESS: Yes, I do.

THE REFEREE: Was it prepared by your office?

THE WITNESS: Yes, it was.

THE REFEREE: Next question.

Q When was it prepared?

THE REFEREE: This document is dated.

MR. SASSOWER: The date is wrong; it's back-dated.

MR. STRAUS: You're introducing it in evidence on a totally immaterial point to show that the date is wrong. Your Honor --

THE REFEREE: Next question.

Q When was that prepared and executed?

MR. STRAUS: Objection.

THE REFEREE: Sustained.

MR. SASSOWER: On what grounds, your Honor?

THE REFEREE: Next question, sir.

MR. SASSOWER: May I ask a simple question as to when it was executed and prepared?

1 THE REFEREE: I said it speaks for itself.

2 MR. SASSOWER: You can put that 1999 on it
3 and that doesn't mean that it's the right date.

4 MR. STRAUS: Objection. You're the one
5 offering it.

6 You're going to offer it and prove that
7 it's inconsistent.

8 THE REFEREE: This document bears a date.
9 It says November of 1985.

10 MR. SASSOWER: Second page, your Honor.

11 THE REFEREE: What happened to the rest of
12 it? Are there any more papers to the rest of
13 this document?

14 It says dated November '85.

15 Q When was that document prepared?

16 MR. STRAUS: Objection, your Honor.

17 THE REFEREE: Do you recall?
18 This doesn't contain his signature. It's signed
19 by Ira Postel.

20 MR. SASSOWER: The second page does.

21 A I believe it does, your Honor.

22 THE REFEREE: Yes. Do you recall this docu-
23 ment?

24 THE WITNESS: Yes, I do.
25

1 THE REFEREE: Do you recall when it was
2 executed, signed, prepared?
3

4 THE WITNESS: I believe it was executed
5 on or about November 5, 1985.

6 THE REFEREE: Go ahead, sir.

7 Q And until November 5, 1985, you said you believe,
8 do you know --

9 MR. SASSOWER: Withdrawn.

10 Q Were you present when D'Amato and Lynch signed
11 this document?

12 MR. STRAUS: If your Honor pleases, what's
13 the relevance of this?

14 THE REFEREE: Sustained. Next question.

15 MR. SASSOWER: It has --

16 THE REFEREE: Sustained. Next question.

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

18 THE REFEREE: Sir, I've given you considerable
19 leeway.

20 MR. SASSOWER: No, your Honor, your Honor
21 thinks he knows the case already.

22 Your Honor made the decision when we had a
23 conference.

24 THE REFEREE: Sir --

25 MR. SASSOWER: Your Honor --

1
2 THE REFEREE: You have already filed motion
3 papers in the Appellate Division seeking my re-
4 moval.

5 Let's go on with the case.

6 Q Would your time records show when this was pre-
7 pared and signed?

8 MR. STRAUS: Objection.

9 THE REFEREE: Sustained.

10 MR. SASSOWER: Your Honor, I'm saying for
11 the record all his documents are phony, fraud,
12 wrong dates, fabricated.

13 THE REFEREE: Next question.

14 MR. SASSOWER: And may I have an opportunity
15 to prove that, your Honor?

16 THE REFEREE: Next question, sir.

17 MR. SASSOWER: May I have a subpoena, your
18 Honor, to subpoena all his time records? These
19 are public documents. He's a receiver of a public
20 trust.

21 THE REFEREE: Denied.

22 MR. SASSOWER: May I know the grounds, your
23 Honor?

24 THE REFEREE: Sir, next question.

25 MR. SASSOWER: May I know the grounds.

THE REFEREE: Sir, his time records are irrelevant to this proceeding.

Q Were you a party to this motion? I'm sorry. A motion that resulted --

THE REFEREE: Another document?

MR. SASSOWER: Let me mark it.

THE REFEREE: Don't you mark it. The Court Reporter will mark it.

MR. SASSOWER: I mean offer it to be marked.

THE REFEREE: Exhibit CC for identification.

(Received, so marked)

Q Are you familiar with that decision dated May 31st, 1985?

MR. STRAUS: Is that a decision which is in evidence, Mr. Sassower?

MR. SASSOWER: Not at this point.

MR. STRAUS: If your Honor please, I object. It seems to me and I'll restate it, since Mr. Sassower seems to ignore rulings, any evidence which pertains to the charges which is relevant and material to those charges, I would have no objection to.

What Mr. Sassower is doing and is continuing to do despite your rulings, is to go to other

1
2 decisions, other rulings, other papers, which,
3 whatever the answer, would have no affect on
4 whether or not he violated the orders that he is
5 charged with violating.

6 He wants to explore many, many things, as
7 he said over and over but you have ruled over and
8 over that's not appropriate for him to explore
9 those things here.

10 MR. SASSOWER: Do you want the relevance?

11 THE REFEREE: Mr. Sassower, would you please
12 extend the courtesy of Mr. Straus not to interrupt
13 him while he's speaking?

14 MR. STRAUS: I renew my motion to terminate
15 this cross-examination.

16 He's not cross-examining. He's going into
17 the same irrelevant areas that he has pursued
18 in violation of your rulings on other occasions,
19 and he just does the same thing. He's going to
20 pursue other motions, other papers, anything that
21 pops into his head.

22 He wants all the records and all the files
23 and not dealing with the pleadings, which is the
24 purpose of this hearing, to make findings of fact
25 with respect to the allegations as framed in the

pleadings.

THE REFEREE: Can you answer the last question?

THE WITNESS: I don't believe I've seen this before.

THE REFEREE: Next question.

Q Was this title --

THE REFEREE: Next question.

MR. SASSOWER: I'm asking the next question.

Q Was this title --

THE REFEREE: He said he's never seen it, sir.

Q Was this action included in Judge Gammerman's order, yes or no?

MR. STRAUS: Objection.

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

Q Are you aware of the fact that the -- who the attorneys for the Arutt firm --

A In what case; there are thirty cases.

Q In that case, in that case.

MR. STRAUS: What case?

THE REFEREE: What's the relevance who the attorneys were?

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

1
2 Judge Gammerman had no jurisdiction and the
3 court has ruled there was no jurisdiction.

4 THE REFEREE: You can't get that from this
5 witness.

6 MR. SASSOWER: Why not?

7 THE REFEREE: Because it's irrelevant as far-
8 as this witness is concerned.

9 He's not preferring charges against you.

10 MR. SASSOWER: Judge, the charges of the
11 Grievance Committee were typed in his office
12 completely.

13 MR. STRAUS: What?

14 MR. SASSOWER: Do you want to see it?

15 MR. STRAUS: I don't want to see it. I
16 don't know that anybody else wants to see it.

17 THE REFEREE: Mr. Sassower, next question,
18 or if you don't have any more questions of this
19 witness --

20 MR. SASSOWER: I have a thousand.

21 THE REFEREE: Sir, you don't have a thousand
22 questions, period.

23 Do you have any more questions? If not,
24 I'll excuse this witness.

25 MR. SASSOWER: I have a lot of questions.

1
2 THE REFEREE: Let's hear the questions, real
3 questions.

4 MR. SASSOWER: Your Honor has made up a
5 decision as to what is relevant already.

6 THE REFEREE: Yes, I told you that.

7 MR. SASSOWER: Will your Honor put it on the
8 record, what is relevant?

9 THE REFEREE: No, I've already put it on the
10 record.

11 MR. SASSOWER: I don't know it, your Honor.
12 They come in with big charges and not one of them
13 sustains a proposition.

14 Am I entitled to know what charges are --

15 THE REFEREE: You have a copy of the charges?

16 MR. SASSOWER: I, I would like to know from
17 Mr. Straus --

18 THE REFEREE: You are not going to yell
19 here anymore. We had enough of your yelling.
20 Next question.

21 Q Outside of this decision which you don't know
22 about, what judge --

23 THE REFEREE: No, objection sustained.

24 MR. STRAUS: It's argumentative.

25 Q Was there any other order in the Supreme Court of

any county, from any judge --

THE REFEREE: To what effect?

Q -- to the effect that Mr. Postel is the attorney,
yes or no?

A I don't know.

Q Was there a cross-motion submitted bearing the
name of Ira Postel?

MR. STRAUS: Objection.

THE REFEREE: Overruled at this point, go
ahead.

Q Did Judge Lester Evans --

MR. STRAUS: Objection.

Q -- wherein Mr. Postel purportedly asked to be
substituted, yes or no?

MR. STRAUS: Objection.

THE REFEREE: Overruled.

A I don't recall.

THE REFEREE: Next question.

Q Wasn't, in fact, that motion by Ira Postel typed
by your office?

MR. STRAUS: Objection. He doesn't recall
the motion.

THE REFEREE: Sustained.

MR. SASSOWER: Your Honor, your Honor, he
doesn't bring any papers on purpose and your

Honor doesn't allow subpoenas.

THE REFEREE: Next question, sir.

Don't say "Your Honor doesn't allow subpoenas."

Q Tell me --

THE REFEREE: I said if you will propose a subpoena for my signature that will be specific, I'll entertain it and decide whether or not it is relevant.

MR. SASSOWER: May I ask your Honor something else, something else?

THE REFEREE: Not the broad subpoenas which you wanted me to sign sometime ago.

MR. SASSOWER: May I inspect public documents at his office?

THE REFEREE: Let's go.

MR. SASSOWER: May I examine public documents in his office?

THE REFEREE: No. Next question, sir. I have nothing to do with public documents in anybody's office. Let's go on with cross-examination.

Q I show you Respondent's Exhibit F for identification. You were asked a question of it last time.

Did you refresh your recollection as to those

1 minutes since the last hearing?

2 A I was not asked to refresh my recollection.

3 Q Would you look at it now and see if it refreshes
4 your recollection as to --

5 MR. STRAUS: Objection.

6 Q -- as to the events of December 19, 1984?

7 MR. STRAUS: Objection. I think he was asked
8 about it.

9 THE REFEREE: Sustained.

10 MR. SASSOWER: On what grounds?

11 Q Well, let me ask you this question --

12 MR. STRAUS: Are we going to repeat every-
13 thing you asked him last time?

14 MR. SASSOWER: Mr. Straus, please stop
15 interrupting, and I don't need these comments.

16 THE REFEREE: I know but once I rule, I have
17 a right to expect you to adhere to that ruling.

18 Q Were you in court on December 19, 1984 before
19 Judge Gammernan, yes or no?

20 MR. STRAUS: Objection. Asked and answered.

21 THE REFEREE: Overruled. Go ahead. Yes or no.

22 A My answer is the same today as it was last time,
23 yes, I was.

24 Q Did Judge Gammernan, in his decision of December
25

19, 1984 --

THE REFEREE: Sir, are you distinguishing between a decision and an order?

MR. SASSOWER: Yes. The decision is in the minutes.

THE REFEREE: Go ahead.

Q Did Judge Gammerman extend Judge Hughes' order as contained in the order to show cause in full, yes or no?

MR. STRAUS: Objection. Judge Gammerman's order is in evidence, as you correctly stated.

MR. SASSOWER: No, but --

THE REFEREE: It speaks for itself.

MR. SASSOWER: Now, let me make the point for the record.

The charge is that I violated three times between December 19 and January 23rd before Judge Gammerman signed the order. That's the charge made.

And I am saying January 23rd does not conform to the decision so I couldn't have violated it because Judge Gammerman didn't extend the decision.

MR. STRAUS: If your Honor pleases, is there any restriction on Mr. Sassower testifying,

1
2 offering documents in evidence? As far as I
3 know, there is no restriction.

4 The witness has been through all of this
5 already. I don't really think it's appropriate.

6 It seems to be Mr. Sassower's purpose to
7 keep this witness on the witness stand until he
8 expires.

9 One of the ways I guess you could accomplish
10 that is to repeat whatever irrelevant cross-
11 examination you conducted the first time, ignore
12 the rulings that were made the first time and
13 just plow ahead and do the same thing.

14 THE REFEREE: Mr. Sassower, if you are
15 contending that Mr. Justice Gammerman's order --

16 MR. SASSOWER: No decision. I'm contend-
17 ing --

18 THE REFEREE: Are you contending, sir,
19 that Mr. Justice Gammerman's order dated
20 January 23rd, 1985 is contrary to the decision
21 he rendered in the same case? Yes? Not by --

22 MR. SASSOWER: Yes.

23 THE REFEREE: -- not by this witness and the
24 order willspeak for itself. The order is the
25 final --

1
2 MR. SASSOWER: But the charge is that I
3 violated it before January 23rd.

4 Now, if --

5 MR. STRAUS: Where is there such a charge?
6 There is an allegation that you violated orders.

7 There is no allegation that you violated
8 an order before it was an order.

9 MR. SASSOWER: He testified on your quest-
10 ioning that I violated it three times between
11 December 19 and January 23rd.

12 THE REFEREE: Sir, annexed to Schedule 1,
13 Schedule 1a is in evidence, it contains a list of--

14 MR. SASSOWER: Not in evidence.

15 MR. STRAUS: They have been received as
16 part of the pleadings.

17 MR. SASSOWER: But, because you allege
18 something in the pleadings, it is not in evidence,
19 your Honor.

20 MR. STRAUS: Yes, and we have offered ma-
21 terials in support of that schedule.

22 MR. SASSOWER: No, you haven't, you certain-
23 ly have not.

24 MR. STRAUS: I was under the impression that
25 they have lengthy exhibits in which documents

1
2 pertaining to those were received in evidence,
3 and I think they are received as 10 and 11.

4 MR. SASSOWER: Not for the truth thereof.

5 You can make any kind of schedule you want.
6 Let's have the original documents.

7 MR. STRAUS: I'm not going to review the tes-
8 timony but the witness testified that these were,
9 in fact, copies of documents that were served and
10 also that the lists were accurate.

11 MR. SASSOWER: Fine. So now, I'm asking him
12 of those three --

13 MR. STRAUS: He didn't testify that anything
14 violated anything else on direct examination.

15 He said that the documents were copies of
16 documents that had been filed or served and that's
17 all and the list was accurate.

18 MR. SASSOWER: And the list was accurate.

19 MR. STRAUS: And we'll leave it to the Referee
20 to decide whether the orders were, in fact, violat-
21 ed.

22 MR. SASSOWER: Fine.

23 Q Is Respondent's Exhibit G for identification the
24 letter you wrote on January 9, 1980?

25 MR. STRAUS: Objection. Are we going to go over

1
2 this again? He's been shown it and identified
3 it. It's marked for identification.

4 Now he goes back with the same document and
5 asks him the same question. What's the point?

6 MR. SASSOWER: I never asked him about the
7 document.

8 Q Did you contend to Mr. Straus --

9 MR. STRAUS: It's not in evidence. Objection.

10 Q Did you contend to Mr. Straus on January 9, 1985,
11 that I violated Judge Hughes' order as extended by Judge
12 Gammerman, and I'm not using the exact words in the letter,
13 is that what you told Mr. Straus?

14 MR. STRAUS: This is a letter which is not
15 in evidence. If the question --

16 MR. SASSOWER: Forget about the letter.

17 THE REFEREE: Does it refresh your recollect-
18 ion? If you can answer it, answer it.

19 A I did advise Mr. Straus that Mr. Sassower violat-
20 ed Judge Hughe's TRO.

21 Q After December 19, 1985 --'4, is that correct?

22 A The TRO, as I recall, was dated December 7, 1984.
23 All I said is that you violated that TRO.

24 Q After December 19 --

25 MR. STRAUS: He's answered the question.

All he said was that you violated the TRO.

Q Okay. You tell his Honor with specifics as to how you contend that I violated the TRO of Judge Hughes?

MR. STRAUS: Objection. First he asks the witness on his cross-examination a subject not covered on direct. He elicits the witness' answer and now he wants to use that as a bootstrap to allow him to explore the whole area which has been foreclosed to him.

I respectfully submit that this is not relevant.

Again and again Mr. Schneider testified that certain documents were filed.

We've put into evidence certain documents and put into evidence certain court orders; none of this has anything to do with whether or not Mr. Sassower violated the court orders.

This witness never expressed an opinion on direct nor should he be asked on cross the same subject matter.

THE REFEREE: Objection sustained.

MR. SASSOWER: Wait a second, your Honor, may I say something?

THE REFEREE: You just did.

1
2 MR. SASSOWER: Do you want to know my argu-
3 ment against it?

4 THE REFEREE: No.

5 MR. SASSOWER: May I put it on the record?

6 THE REFEREE: You are putting everything on
7 the record.

8 MR. SASSOWER: I'd like everything on the
9 record.

10 THE REFEREE: So would I.

11 MR. SASOWER: May I put it on the record?

12 THE REFEREE: Go ahead, sir.

13 MR. SASSOWER: The allegation was made by
14 Mr. Schneider, adopted by Mr. Straus, that I vio-
15 lated Judge Hughe's order three times.

16 THE REFEREE: And it's up to Mr. Straus
17 to prove it, if he so alleged it.

18 MR. SASSOWER: He alleged it.

19 THE REFEREE: So it's up to him to prove it.

20 MR.SASSOWER: He proved it through Mr.
21 Schneider and Mr. Schneider testified on direct
22 that I --

23 MR. STAUS: He never testified to that.

24 MR. SASSOWER: Oh, come on.

25 MR.STRAUS: We've had the same discussion six

1
2 or seven times. You have said it eight or ten
3 times. You don't listen to anyone by yourself.
4 You don't listen to rulings. You just go back
5 and do it again as though we have all forgotten
6 the prior rulings.

7 MR. SASSOWER: Mr. Straus, do you withdraw
8 the assertion?

9 THE REFEREE: Mr. Sassower, again, if you
10 don't have any more questions --

11 MR. SASSOWER: I have plenty of questions.

12 THE REFEREE: You keep saying you have a
13 thousand questions.

14 I've already indicated to you that if it's
15 irrelevant, don't ask the question.

16 We've been over and over and over the same --

17 MR. SASSOWER: May I make a record?

18 THE REFEREE: You have already made a record
19 numerous times. No, sir. Next question.

20 MR. SASSOWER: I'd like to --

21 MR. STRAUS: You're not making a record.
22 You are just delaying --

23 MR. SASSOWER: Judge, I didn't bring all
24 my papers with me.

25 THE REFEREE: Sir, you have a table full of

papers.

MR. SASSOWER: For Mr. Postel.

Q Mr. Schneider, did you write to Mr. Straus on November 30, 1984 that Judge Evans had convicted me of contempt?

MR. STRAUS: Objection. Is this inconsistent about some direct testimony?

MR. SASSOWER: Yes, absolutely.

MR. STRAUS: Are you asking him? This is not the way to establish an inconsistency, and, therefore, I object.

THE REFEREE: Overruled.

A Could you be more specific as to what letter you are talking about, Mr. Sassower?

Q November 30, 19 --

THE REFEREE: It will be exhibited for identification. Let the Court Reporter mark it first.

(Marked DD for identification)

A Yes, I did write to the Grievance Committee by letter dated November 30, 1984 in which I stated in substance that Judge Martin Evans had granted a motion to hold you in contempt.

Q Did you mention whether it was criminal or civil?

A The letter refers to contempt of court.

1
2 Q Did you ever notify Mr. Straus as to whether it
3 was civil or criminal?

4 MR. STRAUS: Objection.

5 THE REFEREE: Did you, yes or no? Overruled.

6 THE WITNESS: I believe I did.

7 Q When?

8 A I don't recall.

9 MR. SASSOWER: Mr. Straus, do you have the
10 letter where he notified you of that?

11 MR. STRAUS: He didn't testify that he
12 did it by letter.

13 He said he doesn't recall.

14 MR. SASSOWER: Judge, if a lawyer comes --

15 THE REFEREE: Stop it.

16 MR. SASSOWER: -- deliberately comes --

17 THE REFEREE: I don't need a grammar school
18 education now.

19 MR. SASSOWER: -- deliberately comes in with
20 no papers, like --

21 THE REFEREE: You came with no papers, ac-
22 cording to what you said.

23 MR. SASSOWER: I came with three briefcases
24 full for Mr. Postel.

25 THE REFEREE: You knew Mr. Schneider was

going to be on the witness stand.

MR. SASSOWER: Where did you make this up from?

MR. STRAUS: Because you were told that he would be.

THE REFEREE: Because we took Mr. Postel out of turn.

MR. SASSOWER: I don't jump back and forth.

MR. STRAUS: You are the only person in this room who didn't hear the statement that we decide which witness was coming back next.

You are the only one who decided --

MR. SASSOWER: Did you tell me that you were going to bring Mr. Schneider today?

THE REFEREE: Mr. Sassower, yelling will not help. There are courtrooms next door and they want to be heard without any noise. There are juries on this floor.

MR. SASSOWER: I did not bring material for Mr. Postel because I expected Mr. Schneider.

THE REFEREE: Continue with your cross-examination.

Q You testified last time that you submitted an order to Judge Evans charging me with criminal contempt,

holding me in criminal contempt, is that correct?

A That's correct.

Q And Judge Evans did not, is that correct?

A He punished you for civil contempt.

Q When Judge Evans charged me with civil contempt, did you notify Mr. Schneider --

MR. SASSOWER: Mr. -- would you give him --

MR. STRAUS: You have every letter sent to me.

Let the record show that I turned over to Mr. Sassower every letter that was sent to me by Mr. Schneider.

Mr. Sassower plays his game now, "Give me the letter" as though he didn't get it before.

In fact, your Honor, he got it. That letter was included with the first request responding to the complaint.

His requests for documents are absolutely as phony as everything else that he alleges.

MR. SASSOWER: Mr. Straus gave me nothing. At the first hearing --

THE REFEREE: Sir, don't say "gave you nothing."

MR. SASSOWER: Let me finish. Then --

1 THE REFEREE: He --

2
3 MR. SASSOWER: Then he gave me letters and
4 said this is all the letters he sent, then two
5 days later, he had more letters.

6 THE REFEREE: There will be a two minute
7 recess.

8 (Recess ensues)

9 THE REFEREE: What are you looking for?

10 MR. SASSOWER: For 10 and 11.

11 MR. STRAUS: You have a copy of the schedules.

12 THE REFEREE: They are part of the pleadings.

13 MR. STRAUS: That was given to him at the
14 pre-hearing conference and it was marked and he
15 was given all of these documents.

16 MR. SASSOWER: I didn't say not but I'd like
17 to show him the original. If you want me to show
18 him a copy, I'll show him a copy, but generally
19 you give a witness the one that's marked.

20 THE REFEREE: All right. It's been handed
21 to you by co-counsel for the Grievance Committee.

22 Q I show you Petitioner's Exhibit 10 for identifi-
23 cation and 11 for identification, and ask you, one, were
24 those documents authored by your office?

25 MR. STRAUS: Objection.

THE REFEREE: Were they what?

MR. SASSOWER: Authored by his office.

MR. STRAUS: Objection. Those are served
by the Grievance Committee, by me as counsel.

THE REFEREE: Sustained.

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

THE COURT: I know what you are saying and
I sustained the objection. Next question.

MR. SASSOWER: Okay, may I have them, please?

Q Did you give the Grievance Committee a schedule
which you contended were lawsuits that were commenced
in violation of court orders, yes or no?

MR. STRAUS: Objection.

THE REFEREE: Overruled.

A I don't recall.

Q Was Petitioner's 10 physically typed by your
office?

MR. STRAUS: Objection.

THE REFEREE: It's for identification.

MR. STRAUS: Objection.

Those are part of the pleadings. I represented
that we submitted them as our pleadings.

Q Were they physically typed --

THE REFEREE: What's the difference, once

they were given to you?

MR. SASSOWER: Judge, if they typed them, they authored them, and --

MR. STRAUS: I'll withdraw my objection.

Q Were these physically typed by your office?

A No.

Q Did you give a list of lawsuits commenced which you alleged were lawsuits commenced in violation of court orders to Mr. Straus or his office, yes or no?

A I don't recall if I gave them a list, per se. I advised them from time to time in writing of lawsuits that you had commenced.

Q In violation of court orders.

A On occasions I pointed out that they were all in violation of court orders.

Q Now, did you ever tell Mr. Straus or the Committee that the first one was in violation of a court order?

THE REFEREE: The first one? Number 1 on Petitioner's 10 for identification?

MR. SASSOWER: Right.

THE REFEREE: Lawsuits commenced in violation of a court order, number 1, Raffe versus Barr, Supreme Court, New York County, index number 10,006, 1980, commenced 5-80.

1
2 MR. STRAUS: And it was specifically with-
3 drawn on his direct examination. He looked at
4 the list.

5 I'm only asking you to remember this, number
6 one, my recollection is that specifically it was
7 excluded from the office as were three others.
8 That was his testimony on direct.

9 MR. SASSOWER: I'm trying to prove that Mr.
10 Schneider gave it to Mr. Straus and Mr. Straus'
11 office without any investigation, without any
12 verification, just copied whatever Mr. Schneider
13 gave them.

14 THE REFEREE: Mr. Sassower, Mr. Straus
15 is obliged to prove it, to prove that you, indeed,
16 on certain days and in certain actions, violated
17 specific court orders.

18 If he can't prove it, those charges will be
19 dismissed.

20 Q Mr. Schneider, you look at the original copy and
21 I'll look at my copy and we can go along a little faster
22 that way.

23 THE REFEREE: Are there any others deleted or
24 just Number 1?

25 MR. STRAUS: One, five, eight and ten sounds

right. It was placed on the record through --

MR. SASSOWER: Right, but before they were deleted, did he ever tell --

Q Before they were deleted, did you ever tell Mr. Straus --

MR. STRAUS: Objection. It's the same thing.

THE REFEREE: You proceed with this witness.

Q Before it was deleted, did you ever tell Mr. Straus --

THE REFEREE: Sustained.

Q Number 2 on the list, is there any order of any court, judge, any judge or anything which states that this action was in violation of a court order?

MR. STRAUS: Objection.

THE REFEREE: They are not contending that this action -- they are saying that the lawsuits commenced were in violation of certain court orders.

MR. SASSOWER: Okay.

Q When -- while this action was pending, did any judge ever state --

MR. SASSOWER: Withdrawn.

Q Did you ever tell, contend or anybody ever contend in Supreme Court, New York County, that this action violated a court order?

1
2 MR. STRAUS: Objection, your Honor. That's
3 not relevant to this.

4 The question is, did we prove it? Are we
5 proving the charges, not whether the witness knows
6 of some other judge who made a ruling. That's not
7 relevant to this.

8 He can go through each one of these.

9 THE REFEREE: I've so stated.

10 MR. STRAUS: Mr. Sassower doesn't listen to
11 the rulings. He does the same thing again, again
12 I renew my motion to terminate cross-examination.
13 He's repeating. He's done nothing but repeat
14 what we covered on two prior occasions.

15 THE REFEREE: Sustained.

16 MR. STRAUS: Exactly the same material.

17 MR. SASSOWER: Are you finished?

18 MR. STRAUS: I've made my application. I'd ask
19 your Honor to terminate cross-examination.

20 THE REFEREE: Go ahead.

21 MR. STRAUS: He's not conducting cross-exami-
22 nation.

23 MR. SASSOWER: Your Honor --

24 THE REFEREE: Don't respond to it.

25 MR. SASSOWER: I want a record.

THE REFEREE: No. I denied the application.
Let's go on with the cross-examination.

MR. SASSOWER: Okay, you denied it.

Q Did you ever contend in any papers to the Supreme Court where Item Number 2 was pending that that action violated a court order?

MR. STRAUS: Objection.

THE REFEREE: Sustained.

Q Did any court ever state that that violated a court order?

MR. STRAUS: Objection.

THE REFEREE: Sustained.

MR. SASSOWER: Your Honor, may the record show that on many of these matters which I'd like to go through, first Mr. Schneider or his firm never alleged that they violated a court order and when they did allege it and given full opportunity to, the court did not agree with them. Okay.

Now, with respect to the failure to allege that they violated a court order --

THE REFEREE: Sir, the Petitioner is contending and you have the papers as well I do, addressing myself to Number 2, commenced May '82 --

MR. SASSOWER: Right.

THE REFEREE: -- they are contending that by commencing that action you violated an order of the Honorable Hilda Schwartz dated September 11, 1980, in which you were relieved in certain proceedings pertaining to Puccini Clothes, et cetera.

MR. SASSOWER: Puccini Clothes is not a plaintiff in this case.

THE REFEREE: And that by order of Judge Sinclair dated February 1, 1982, which preceded the commencement of Number 2, in May of '82, you were disqualified as attorney for Mr. Raffae in specified Puccini proceedings.

MR. SASSOWER: Your Honor, this is absolutely wrong.

It was never even alleged in this case that I violated because I didn't violate it. Nobody ever --

MR. STRAUS: The point is what have we proved.

THE REFEREE: I have the charges here. If Mr. Straus can't prove it, it will be dismissed.

MR. SASSOWER: That's what I'm asking, if I could have -- let's start -- if you want to save time -- if I could have a very simple statement in

1 writing, oral, on the record, from Mr. Straus,
2 which lawsuits violated what orders. I would go
3 specifically to that because I say, your Honor,
4 that if he were caused to set forth what I violat-
5 ed --
6

7 MR. STRAUS: He's said this eight or nine
8 times, your Honor.

9 He said the same thing eight or ten times.

10 You have ruled consistently on each occas-
11 ion that he couldn't do it and now he's going ahead
12 and doing it again and making the same supposed
13 record.

14 There is no point in making a record over
15 and over again.

16 MR. SASSOWER: If your Honor states that the
17 Grievance Committee makes the complaint, I'll
18 call Mr. Straus to the stand. Maybe he can give
19 me some explanation.

20 He puts a laundry list down there.

21 THE REFEREE: Sir, continue.

22 Q Are you aware of the fact that Mr. Butler of
23 Damato and Lynch contended that Judge -- to Judge Cohen
24 that the motions therein violated Judge Gammerman's order?

25 MR. STRAUS: Objection, your Honor.

1
2 Now, at this point, I again renew my application
3 if Mr. Sassower has no wish to cross-examine on
4 areas which have not been precluded or on which
5 he's already been foreclosed six or eight times,
6 I would ask you to consider this cross-examination
7 at an end.

8 He's doing the same thing as though you
9 never made a ruling.

10 THE REFEREE: Objection sustained. Go ahead.

11 Q Did any judge of any court ever contend that Mr.
12 Raffe's action against the Arutt firm, that's Item Number 2,
13 was frivolous, vexatious, or any term of that nature?

14 MR. STRAUS: Objection, your Honor. The
15 only real decision --

16 MR. SASSOWER: You're alleging this.

17 MR. STRAUS: The only real decisions are the
18 ones that we have offered in evidence.

19 Mr. Sassower doesn't point to anything which
20 reversed any of those decisions, anything which
21 set aside the orders, which would be the only way
22 that he could attack the orders. The orders
23 themselves are in evidence.

24 As has been said over and over again, it
25 doesn't make any difference what anybody said

1 including the President of the United States as to
2 his opinion whether or not they were frivolous or
3 not.
4

5 The only thing that matters in this case are
6 those documents or that testimony which has been
7 received in evidence which Mr. Sassower can cross-
8 examine on. That's not what he's doing.

9 He's not cross-examining at all. He's attempt-
10 ing to go into irrelevant areas through this
11 witness despite your Honor's rulings and again
12 he ignores prior rulings.

13 THE REFEREE: Continue, Mr. Sassower.

14 Q Would you answer that question?

15 MR. STRAUS: I've objected to the question,
16 your Honor.

17 THE REFEREE: The Court Reporter will read
18 the question back.

19 (Question repeated)

20 THE REFEREE: Answer it. Objection overruled.

21 A I don't recall what the judge said in dismissing
22 the action about three years ago.

23 Q I said against the Arutt firm.

24 MR. STRAUS: Is that a question?

25 MR. SASSOWER: Yes, against the Arutt firm.

1 THE REFEREE: Against what?

2 MR. SASSOWER: The Arutt firm.

3 MR. STRAUS: He said he didn't recall.

4 THE REFEREE: Next question.

5 Q Do you have a copy of the agreement that was signed
6 by Mr. Raffe with your firm?

7 MR. STRAUS: Objection.

8 THE REFEREE: Sustained.

9 MR. SASSOWER: I'd like to offer for identifi-
10 cation --

11 MR. STRAUS: You have it.

12 MR. SASSOWER: No.

13 THE REFEREE: Yes?

14 MR. SASSOWER: I'd like to mark it for iden-
15 tification.

16 MR. STRAUS: Mark what?

17 MR. SASSOWER: An agreement.

18 THE REFEREE: What agreement?

19 MR. SASSOWER: That his firm executed with
20 Mr. Raffe.

21 THE REFEREE: Do you have it, a copy of it?

22 MR. SASSOWER: No. I want it from this
23 gentleman. I asked Mr. Postel to bring it.

24 THE REFEREE: Next question. He's Mr. Schneider
25

MR. SASSOWER: I know, I expected Mr. Postel here.

THE REFEREE: Next question.

Q Going back to 1982, you testified at the last session on cross-examination that when you entered the case you initially received a stipulation of substitution from the Arutt firm, is that correct?

A In one case, that's correct.

Q And was there an objection to such stipulation, yes or no?

MR. STRAUS: Objection. Relevance.

THE REFEREE: Overruled.

A I don't recall whether you objected. I assume that you did, Mr. Sassower; no one else objected.

Q Thereafter, Lee Feltman, you stated, appointed your firm, is that correct?

A I didn't say thereafter at all. Don't put words in my mouth.

Q When did Lee Feltman appoint your firm?

MR. STRAUS: Objection. He's going to review his own cross-examination. He testified to this on cross-examination, your Honor.

It's pointless to go over it again.

THE REFEREE: Overruled.

1
2 A I previously testified that Mr. Feltman appointed
3 our firm towards the beginning of February, 1982, as attorney
4 for the receiver.

5 Q And the question was asked of you also was, and
6 I don't think we received an answer --

7 THE REFEREE: Sir, no editorial comment.

8 MR. SASSOWER: Give me a few moments. Let
9 me see if I have my notes here.

10 Q You made a motion to relieve Puccini of default
11 in Barr Number Two.

12 A There is no action entitled Barr Number Two.

13 Q We said one bearing index number 16792 of 1980
14 we would call Barr Number Two.

15 A I previously testified that when the receiver
16 was appointed my firm came into the case, Puccini was
17 in default in answering the third-party complaint.

18 Q Your first motion to vacate the default, did
19 that result in a decision by Judge Ryp?

20 MR. STRAUS: Objection, your Honor.

21 THE REFEREE: Overruled.

22 MR. STRAUS: If your Honor pleases --

23 THE REFEREE: That document you handed
24 him will be marked Respondent's Exhibit EE for
25

1
2 identification.

3 MR. STRAUS: If your Honor pleases, I
4 submit that this question and this line of
5 questioning is in violation of your prior rul-
6 ings.

7 Now we're going to pursue what other judges
8 decided.

9 MR. SASSOWER: Mark it in evidence.

10 MR. STRAUS: For identification.

11 MR. SASSOWER: I want to offer it in evidence.

12 MR. STRAUS: May I see it first?

13 (shown to Counsel)

14 MR. STRAUS: Object on the grounds that it's
15 totally irrelevant to the charges, has nothing to
16 do with them.

17 Whatever was decided in this case has
18 nothing to do with whether or not Mr. Sassower
19 violated court orders, your Honor.

20 I respectfully submit it has no relevance
21 to this proceeding.

22 But then, again, Mr. Sassower is apparently
23 not bound by what's relevant or material, nor
24 is he bound by prior rulings.

25 MR. SASSOWER: May I move to strike that

1
2 remark? Mr. Straus knows my face, knows the
3 fraud that was perpetrated by this --

4 THE REFEREE: Sir --

5 MR. SASSOWER: -- fraud. I'm going to tell
6 that to you, everybody knows about it in Supreme
7 Court, New York County.

8 THE REFEREE: As far as this document is con-
9 cerned --

10 MR. SASSOWER: I'm going to connect and show
11 you the fraud, that none of this litigation was
12 frivolous.

13 THE REFEREE: What's the relevance of this?

14 MR. SASSOWER: I'll show the relevance on
15 my testimony.

16 THE REFEREE: Tell me.

17 MR. SASSOWER: I'm saying that they entered
18 into a corrupt agreement with the plaintiff.

19 MR. STRAUS: Precisely the same area that you
20 ruled he couldn't go into.

21 THE REFEREE: Where does it say that here?

22 MR. SASSOWER: I'll show it to you.

23 THE REFEREE: Where? Objection sustained.

24 (Marked EE for identification)

25 Q When did your firm or the receiver receive the

books and papers of Puccini?

MR. STRAUS: Objection. Asked and answered.

THE REFEREE: Overruled.

A Sometime after February 1, 1982.

Q Could you be more specific?

MR. STRAUS: Objection.

THE REFEREE: If he can.

A We received some books and records of Puccini in 1982.

Q There came a time in 1982, where the firm of Kreindler and Relkin moved for summary judgment against the defendant Hyman Raffe and Barr, Number 2, is that correct?

A That's correct.

Q And did Hyman Raffe, among other things, cross-move as against Puccini Clothes?

MR. STRAUS: Objection, asked and answered also, lacking in relevance.

THE REFEREE: Overruled.

MR. STRAUS: If your Honor please, this is going to be the same, a full days repeat.

THE REFEREE: Sir, go ahead.

Q Yes or no.

A I believe there was a cross-motion that you prepared in the action in which you were disqualified for judgment

over.

Q Okay. And was there not, in your proposed third-party answer, did you set up any first-party defenses?

MR. STRAUS: Objection, your Honor.

THE REFEREE: Sustained.

MR. SASSOWER: Your Honor, this is the --

THE REFEREE: Sustained.

MR. SASSOWER: Your Honor --

THE REFEREE: No. Sustained.

MR. SASSOWER: Your Honor doesn't know the case.

THE REFEREE: Next question, sir.

MR. SASSOWER: I'm going to, I'm going to offer the document for identification. We'll bring it in.

THE REFEREE: There is no reference to any document. You want to identify a document? It will be Respondent's FF for identification. It will be for identification only.

We'll recess for lunch. We'll recess for lunch.

MR. SASSOWER: Can I make a suggestion?

THE REFEREE: Try to get back here --

MR. SASSOWER: Can I make a suggestion, your

Honor?

THE REFEREE: By ten after two at the latest.

MR. SASSOWER: Your Honor, may I make a suggestion?

I'd like to go chronologically and I'd like to go in some systematic offer.

THE REFEREE: Do you have more cross-examination of this witness?

MR. SASSOWER: I have a lot of it.

THE REFEREE: You keep saying that but you keep going back to questions that were already answered or questions that I sustained objections made thereto.

Ten after 2 we'll resume.

MR. SASSOWER: Your Honor, I need to see certain documentation they have. Either arrangement --

MR. STRAUS: Your Honor, we have a conversation which is going on.

THE REFEREE: Ask Mr. Straus. Give him a list of what documents you think you want period and look through the documents that you have received. Mr. Straus has indicated that you have all documents

MR. SASSOWER: I want the time sheets.

THE REFEREE: No, I've already sustained --

MR. STRAUS: This is --

THE REFEREE: -- the objection to that request
at least a dozen times.

MR. SASSOWER: On what grounds, your Honor?

MR. STRAUS: I think you have stated the
grounds a dozen times.

THE REFEREE: I'm not going to repeat myself.
Luncheon recess.

(Lunch recess ensues)

- - - - -

(Afternoon session)

THE REFEREE: Continued cross-examination.

MR. SASSOWER: Honor, before we continue,
cross-examination, I'd like to make or state some-
thing for the record and make a request.

I understand the stenographer stopped taking
stenographic minutes once you --

THE REFEREE: Pardon?

MR. SASSOWER: I understand the stenographer
stopped taking stenographic minutes once your
Honor adjourned the matter.

THE REFEREE: Yes, I adjourned the matter
and that's it.

1
2 MR. SASSOWER: Wait a second, let me finish.

3 THE REFEREE: We recessed for lunch and I
4 walked off the bench and there was no reason for
5 the stenographer to do anything else.

6 MR. SASSOWER: Except --

7 THE REFEREE: No exceptions.

8 MR. SASSOWER: I want to state what your
9 Honor stated to me.

10 THE REFEREE: I didn't say anything to you.

11 MR. SASSOWER: Well, let me put what I said
12 you said.

13 Mr. Straus called me a liar and I made
14 a non-physical challenge to him.

15 THE REFEREE: A what?

16 MR. SASSOWER: A non-physical challenge to
17 him.

18 THE REFEREE: That wasn't non-physical, sir.

19 MR. SASSOWER: Let me finish, then you can
20 put down whatever you want, your Honor.

21 His Honor said nothing to Mr. Straus but
22 ordered me to sit down.

23 THE REFEREE: Yes. I ordered you to sit down
24 because you were about to use your fists, Mr.
25 Sassower.

1
2 MR. SASSOWER: Let me finish. At that
3 point, his Honor out of a clear, blue sky, brought
4 up the subject about the ten minute conversation
5 with --

6 THE REFEREE: Mr. Sassower, --

7 MR. SASSOWER: May I finish the conversat-
8 ion?

9 THE REFEREE: All your yelling will not do you
10 any good.

11 Continue with the cross-examination.

12 MR. SASSOWER: I'd like to put this on the
13 record.

14 THE REFEREE: Are you through with this witness?

15 MR. SASSOWER: His Honor made reference --

16 THE REFEREE: Are you through with this
17 witness?

18 Proceed, otherwise I'll excuse him.

19 MR. SASSOWER: Can I put down what your Honor
20 said?

21 THE REFEREE: No, let's go on.

22 MR. SASSOWER: Will your Honor give me an
23 opportunity at an appropriate time to put down
24 your Honor's remarks?

25 THE REFEREE: No. I left the bench, sir,

Period. There was no reason for the Court Reporter to take any more minutes once I left the bench.

MR. SASSOWER: Your Honor made a remark to me.

THE REFEREE: Let's go.

MR. SASSOWER: I'll be at the Appellate Division tomorrow afternoon.

THE REFEREE: Sir, you can go over to the Appellate Division tonight. Why wait for tomorrow?

MR. SASSOWER: May I be excused to go over to the Appellate Division with Mr. Straus?

THE REFEREE: When?

MR. SASSOWER: Now.

MR. STRAUS: I'm not going to go to the Appellate Division. I have no reason to go to the Appellate Division.

THE REFEREE: You said tomorrow morning.

MR. SASSOWER: Tomorrow morning it's conference day in the Second Department.

I said tomorrow at 2 o'clock. Your Honor said --

THE REFEREE: You have no session tomorrow so you're free all day tomorrow.

MR. SASSOWER: Your Honor stated I'm free to

1
2 go now so I said "Can I go now?"

3 THE REFEREE: I didn't say you could go
4 now. You said it. Don't put words into my mouth.

5 MR. SASSOWER: Okay. May I make just one
6 statement?

7 THE REFEREE: No. Cross-examine.

8 MR. SASSOWER: I offer Respondent's G in evi-
9 dence and not for the truth thereof.

10 MR. STRAUS: May I see it?

11 MR. SASSOWER: Yes.

12 MR. STRAUS: Your Honor, the first question
13 which would arise would be why Respondent would
14 be offering a document in evidence, if not for
15 the truth thereof.

16 Second, there would appear to be absolutely
17 no relevance to a communication from the witness
18 to me unless it was related --

19 THE REFEREE: I already decided that. I
20 already said "No."

21 MR. SASSOWER: I can't offer it in evidence?

22 MR. STRAUS: I think it was denied on a
23 prior occasion.

24 THE REFEREE: You tried to offer it before.

25 MR. SASSOWER: Not in evidence.

1
2 THE REFEREE: All right, let me look at it.

3 MR. STRAUS: This is "G" for identification.

4 THE REFEREE: This is a xerox copy of a let-
5 ter alleged to have been sent by Mr. Schneider to
6 the Grievance Committee.

7 What's the relevance?

8 MR. SASSOWER: Your Honor agreed with Mr.
9 Straus that I could not ask him any question
10 as to the contents unless I offer it in evidence
11 so I'm offering it in evidence.

12 THE REFEREE: I didn't say unless you of-
13 fered it in evidence.

14 MR. SASSOWER: Mr. Straus did. That was
15 the grounds of Mr. Straus' objection and your
16 Honor sustained it on those grounds.

17 MR. STRAUS: That was the grounds to the
18 objection to the question.

19 Now you're offering the document in evidence,
20 so --

21 THE REFEREE: Not -- you're offering it
22 not to the truth.

23 MR. SASSOWER: Without conceding the truth.

24 THE REFEREE: Objection sustained.

25 MR. SASSOWER: On what grounds?

THE REFEREE: Next question, sir.

1
2 Q Mr. Schneider, did you ever write to Mr. Straus
3 or the Grievance Committee and advise them of what Judge
4 Gammerman did on December 19, 1984?

5 MR. STRAUS: Objection.

6 THE REFEREE: Sustained.

7 MR. SASSOWER: On what grounds? His Honor,
8 Judge Gammerman modified his restraining notice,
9 the temporary restraining notice.

10 THE REFEREE: Ask him directly.

11 Q Do you need something to refresh your recollection
12 as to --

13 THE REFEREE: No, you ask him directly.

14 Q What did --

15 MR. SASSOWER: I'll ask him directly.
16 Where are the minutes, if I may?

17 Q Is this a --

18 THE REFEREE: What are you showing him?

19 MR. SASSOWER: I'm showing him Respondent's
20 F for identification and I ask you is this a true
21 copy of the proceedings before Judge Gammerman on
22 December 19, 1984, yes or no?

23 MR. STRAUS: Objection. He's again attempting
24 to go behind the order.

25 The order speaks for itself.

1
2 MR. SASSOWER: This is before January 23rd.

3 MR. STRAUS: That's correct, that's exactly
4 why I'm objecting to it.

5 We've been through this several times.

6 MR. SASSOWER: There's an order in there
7 modifying Judge Hughes --

8 THE REFEREE: That has nothing to do with
9 this witness.

10 MR. SASSOWER: He was there.

11 THE REFEREE: So what? Everything is for
12 the record, sir.

13 MR. SASSOWER: For the record, Judge Gammer-
14 man modified Judge Hughes.

15 MR. STRAUS: Objection.

16 THE REFEREE: Everything you say is not
17 evidence. Anything you say will not be consider-
18 ed evidence.

19 MR. SASSOWER: I offer it in evidence.

20 THE REFEREE: Objection sustained.

21 MR. SASSOWER: I represent to the Court
22 that I'll state that this is what happened on
23 December 19.

24 THE REFEREE: Sir, objection sustained.

25 MR. SASSOWER: I want to cross-examine

1
2 this witness with respect to it.

3 THE REFEREE: Objection sustained.

4 Q Mr. Schneider, did you at any time submit a copy
5 of the minutes to the Clerk of Special Term Part 1 in con-
6 nection with your order which was dated January 23rd, 19 --

7 MR. STRAUS: Objection, going behind the
8 order.

9 THE REFEREE: Sustained.

10 MR. SASSOWER: On what grounds?

11 THE REFEREE: Sir --

12 MR. SASSOWER: If he submitted it with the
13 order --

14 THE REFEREE: Sir --

15 MR. SASSOWER: -- he vouched for its veracity.

16 THE REFEREE: Sustained. The judge's order
17 will speak for itself.

18 MR. SASSOWER: This is before the order.

19 THE REFEREE: Sir, I know it's before the
20 order. That's what you keep saying. It's finalized
21 in the judge's order. We're not going to go
22 behind the judge's order. You were told that, sir,
23 time --

24 MR. SASSOWER: We're not going behind the
25 order. This is an alleged violation before

January 23rd.

MR. STRAUS: Not of that order, obviously.

THE REFEREE: Go ahead, sir.

Q You testified, Mr. Weissman, that --

MR. STRAUS: This is Mr. Schneider.

MR. SASSOWER: This is Mr. Schneider.

Q You testified that on January 7, 1985, I violated Judge Gammerman's order or an order commencing an action against Edward Weissman.

MR. STRAUS: Objection, if your Honor please. I'd like to be heard on this because this goes back to something that has been dealt with I don't know how many times.

On direct examination Mr. Schneider was never asked if Mr. Sassower ever violated an order.

There was no direct testimony. He testified and I had had various orders and he identified various documents.

Mr. Sassower attempts to go behind the orders and attempts to ask Mr. Schneider whether, in his opinion, there was a violation of the order.

He's going to cross-examine on the basis of his own prior cross-examination which was irrelevant to begin with and it is a repetition of an

entire area which you ruled was inadmissible.

I believe at one point he picked it up again. You ruled it was inadmissible at that time and he's picking it up again.

THE REFEREE: Next question, sir.

MR. SASSOWER: Do I understand Mr. Straus to state that Mr. Schneider did not testify that I violated any order?

MR. STRAUS: You don't understand that. I distinguished between his direct examination and his cross-examination and you're directing your own re-cross of your own cross-examination.

MR. SASSOWER: He testified on direct that I violated three orders.

MR. STRAUS: Never happened.

MR. SASSOWER: Of Judge Hughes and he spoke of Number 14, 15 and 16. That was on direct examination.

MR. STRAUS: The only testimony he gave with respect to violation of any order was he testified to certain documents, I think four in number, did not violate any court order to the best of his knowledge. That was the entire extent of his direct examination.

1
2 All he did was give evidence which can only
3 be regarded as helpful to Mr. Sassower on the
4 point as to whether or not there was a violation
5 of an order and that's why I object to going back
6 to an area that was specifically avoided on direct
7 examination, because Mr. Schneider should not be
8 asked for an opinion as to whether or not there
9 was a violation of an order but Mr. Sassower
10 keeps doing it on cross-examination.

11 MR. SASSOWER: Your Honor, assuming what Mr.
12 Straus says to be correct, there is nothing that
13 prohibits me from eliciting from the complainant
14 that the order was not violated.

15 THE REFEREE: My ruling prohibits you.

16 MR. SASSOWER: From eliciting from a witness
17 that something didn't violate an order?

18 THE REFEREE: Sir, when I sustain an object-
19 ion, that's it. If I'm wrong, I'm subject to being
20 corrected by the higher-ups.

21 Q Mr. Schneider --

22 THE REFEREE: My notes indicate that Mr.
23 Schneider testified that as far as the papers
24 indicating suits, not a violation of court order,
25 that Numbers 1, 58 and 10 were not to be included.

1
2 MR. SASSOWER: Okay, so, if you would just
3 take that statement, your Honor, just take that
4 statement, cannot one, is not your Honor asked
5 to infer the other ones do violate the court
6 order?

7 THE REFEREE: I know, but it's not for Mr.
8 Schneider to say.

9 MR. SASSOWER: But I want to prove that
10 it's not as to whether or not the Petitioner who
11 filed the charges can sustain that specific
12 charge or these specific charges, your Honor is
13 asked to sustain a specific charge through the
14 testimony of witnesses and apparently Mr.
15 Schneider is their main witness. Why --

16 THE REFEREE: Sir, the document is in
17 evidence, sir, and documents in evidence --

18 MR. SASSOWER: Well --

19 Q You testified that with respect to Judge Gammer-
20 man's order of January 23rd, the long order, not the other
21 short one, that I was the attorney for the plaintiffs or
22 Mr. Raffe in actions Number 3, 2, 10, is that correct?

23 A You are asking me to recall my testimony without
24 a copy of the order, sir? I cannot do it.

25 MR. STRAUS: Objection, since he's asking

Schneider-cross

752.

him to repeat an answer that he gave on a prior occasion.

MR. SASSOWER: That's the prelude to it.

THE REFEREE: Next question.

Q Do you remember the Court asking you this question and you giving this answer?

THE REFEREE: Are you reading from a transcript?

MR. SASSOWER: Yes.

THE REFEREE: Which court?

MR. SASSOWER: Judge Gammerman.

THE REFEREE: What's the relevance?

MR. SASSOWER: Let me give the question.
Let me put it in.

MR. STRAUS: Objection.

THE REFEREE: Go ahead.

MR. STRAUS: On what basis can you read from a transcript?

THE REFEREE: Go ahead and ask the Court.

MR. SASSOWER: "The Court: Those motions, Mr. Sassower can represent Mr. Raffe. Mr. Schneider: No, he cannot represent Mr. Raffe but he can certainly represent himself."

Q Was that what the court asked you?

1
2 MR. STRAUS: Objection. It's a question
3 of whether Mr. Sassower violated the order,
4 not anything that was said about it on other
5 occasions.

6 THE REFEREE: Wait a minute, sir.
7 The Grievance Committee has not filed charges
8 against you for representing yourself.

9 MR. SASSOWER: You didn't hear that.
10 I'm saying the Judge Cammerman order was produced,
11 one, by a lot of fraud, one of the frauds --

12 THE REFEREE: You have said that already.

13 MR. SASSOWER: Judge, if your Honor would
14 look at the Throckmorton case, at the Tamiani
15 case, at the Short case --

16 THE REFEREE: Sir, you keep throwing citat-
17 ions --

18 MR. SASSOWER: I gave you a memorandum on
19 it.

20 THE REFEREE: You threw citations at me and
21 none of it holds up.

22 MR. SASSOWER: Did your Honor -- may I ask,
23 read those cases?

24 THE REFEREE: Yes, I did.

25 MR. STRAUS: Your Honor, this is a violation

1
2 of your rulings.

3 THE REFEREE: I read all the cases.

4 MR. SASSOWER: Your Honor, then --

5 THE REFEREE: I read the first two cases
6 you threw at me at the pre-trial conference.

7 MR. SASSOWER: I didn't throw any at you
8 then.

9 THE REFEREE: You did. Palmieri in the
10 Appellate Division and Court of Appeals and you
11 threw the citations at me and I read the cases
12 and xeroxed them.

13 They did not sustain your position.

14 MR. SASSOWER: All the cases after that I
15 gave you in my memorandum of law --

16 MR. STRAUS: I would ask your Honor to make
17 a ruling.

18 MR. SASSOWER: Your Honor doesn't know.

19 THE REFEREE: Sir --

20 MR. SASSOWER: Your Honor cannot know whether
21 they come within a case unless you hear the evi-
22 dence.

23 THE REFEREE: Mr. Sassower --

24 MR. SASSOWER: Your Honor makes a decision
25 and then you don't want to hear the evidence.

1
2 THE REFEREE: Mr. Sassower, I'll hear all
3 relevant evidence.

4 MR. SASSOWER: How do you know it's rele-
5 vant or not?

6 THE REFEREE: Are you going to talk about
7 the flood during the days of Noah or the Ten
8 Commandments during the days of Moses or the
9 crucifixion of Jesus at the beginning of
10 the Common Era.

11 MR. STRAUS: I'd like to renew an applicat-
12 ion at this time, for this reason, as your Honor
13 is aware, on six, possibly ten occasions, you
14 have ruled, you directly instructed Mr. Sassower,
15 you have instructed Mr. Sassower that he could
16 not go behind various orders and rulings that we
17 could not explore the area of alleged corruption
18 or conspiracy, that that was not the function
19 of this hearing.

20 Despite those rulings and directions,
21 Mr. Sassower continues to go back to the same
22 areas in violation of your previous rulings.

23 Not only is that in defiance of the
24 rulings, but it is totally unfair and unreasonable
25 to submit a witness who has been on the stand for

three days to nothing but repetition, frivolous, repeated violations of your rulings with no end in sight. He's repeating.

There is no point in having a witness on the stand forever because Mr. Sassower wants to punish him by the length of his examination.

You have ruled half a dozen times that he could not pursue this line of questioning.

THE REFEREE: More than a half dozen.

MR. STRAUS: He continues to do it.

I again ask you to rule this cross-examination at an end.

THE REFEREE: Mr. Sassower, do you have any further cross-examination?

MR. SASSOWER: Yes.

THE REFEREE: Let's hear the questions.

MR. SASSOWER: First of all --

THE REFEREE: Not first of all.

MR. SASSOWER: -- I want to --

THE REFEREE: Mr. Straus, your application is granted, the witness is excused.

MR. STRAUS: Thank you, your Honor.

THE WITNESS: Thank you, your Honor.

MR. SASSOWER: May the record show that my

pleadings specifically states that some of the orders were void. No motion was made to strike it, none was stricken by the Appellate Division.

THE REFEREE: Next witness, Mr. Straus.

MR. STRAUS: Your Honor, we have no witness to call at this time.

Our next witness would be Mr. Postel.

However, what we could do with respect to Charge 7, if your Honor pleases, we have some documents --

MR. SASSOWER: I'm not finished with this witness.

THE REFEREE: He's been excused already by me.

MR. SASSOWER: Fine.

MR. STRAUS: We have certain documents with respect to Charge 7 which I would offer in evidence at this time.

MR. SASSOWER: Do it by witnesses. Documents don't prove themselves.

MR. STRAUS: We've discussed this, but --

THE REFEREE: Respondent failed to cooperate with the Committee. That's the failure to cooperate.

1
2 MR. STRAUS: That's correct, and as I
3 stated at the pre-hearing conference, your Honor,
4 in support of that charge, we would offer the
5 correspondence between the Grievance Committee
6 and Mr. Sassower in evidence and that would
7 comprise our entire evidence with respect to
8 Charge 7.

9 THE REFEREE: That's one through six.

10 MR. STRAUS: That's correct.

11 MR. SASSOWER: I'd like you to mark the
12 document.

13 MR. STRAUS: I'm going to offer them in evi-
14 dence.

15 THE REFEREE: A letter dated December 5,
16 1985.

17 MR. STRAUS: That's correct, and annexed
18 to that letter is a letter dated November 30,
19 1984, from Donald Schneider addressed to the
20 Grievance Committee. This would be 49 in evi-
21 dence.

22 I show a copy to Mr. Sassower.

23 Do you have any objection?

24 MR. SASSOWER: No.

25 MR. STRAUS: This is offered as 49.

1
2 MR. SASSOWER: Not in evidence, your Honor.

3 MR. STRAUS: I'm offering it in evidence.

4 MR. SASSOWER: Absolutely not.

5 THE REFEREE: It's being offered in evidence.

6 MR. SASSOWER: Absolutely not. Then get
7 Mr. Schneider back and I want to cross-examine
8 him as to the matters.

9 THE REFEREE: Mr. Schneider has been excus-
10 ed.

11 MR. SASSOWER: Then he should have put
12 these things in evidence before Mr. Schneider was
13 excused.

14 THE REFEREE: Your exception is noted.

15 It's received in evidence as Petitioner's
16 Exhibit 49.

17 MR. SASSOWER: Will your Honor sign a subpoena
18 that I can subpoena Mr. Schneider?

19 THE REFEREE: Sir, I've already told you the
20 extent to which I'll sign subpoenas so don't start
21 it again.

22 I'm not going to repeat it.

23 MR. SASSOWER: I should ask Mr. Straus. I
24 want a plain subpoena to Mr. Schneider.

25 THE REFEREE: Mr. Schneider has been excused,

1
2 sir.

3 MR. SASSOWER: But --

4 THE REFEREE: Mr. Schneider has been excus-
5 ed.

6 MR. SASSOWER: But new evidence is being
7 put in.

8 THE REFEREE: No. Go ahead.

9 MR. STRAUS: May we have that marked?

10 (Marked Exhibit 49 in evidence)

11 MR. STRAUS: As Exhibit 50 in evidence, I
12 offer a letter from George Sassower addressed
13 to me dated Decmeber 14, 1984, consisting of
14 six pages with attachment designated Exhibit A
15 and this would be 50 in evidence.

16 Mr. Sassower, do you have any objection to
17 this?

18 I show you, Mr. Sassower, the document?

19 MR. SASSOWER: No objection.

20 MR. STRAUS: Can we have this marked, your
21 Honor?

22 THE REFEREE: Yes.

23 (Marked Exhibit 50 in evidence)

24 MR. STRAUS: As Exhibit 51 in evidence, I
25 offer a one page document which is a letter

1
2 dated, a copy of a letter dated January 3rd,
3 1985, addressed to George Sassower from me.

4 MR. SASSOWER: No objection. It's self-
5 serving.

6 THE REFEREE: Overruled.

7 (Marked Exhibit 51 in evidence)

8 THE REFEREE: On Number 2, Exhibit 50 in
9 evidence, the Respondent, in a letter to you,
10 acknowledged receipt of the complaint so that
11 he did respond to it.

12 MR. STRAUS: I truly welcome the receipt.
13 You'd have to read the exhibit.

14 THE REFEREE: He stated that he did not
15 read it but he responded to it.

16 MR. SASSOWER: Six pages of a response.

17 THE REFEREE: Go ahead. By letter dated
18 January 3rd, you wanted more than --

19 MR. STRAUS: That's correct.

20 MR. SASSOWER: Excuse me, your Honor before
21 your Honor makes a ruling, there is nothing in
22 the letter of January 3rd that says I did not
23 respond to it.

24 I responded to everything that's in there.

25 THE REFEREE: Sir, by letter dated January 3rd

1
2 Mr. Straus alleges that you were again informed,
3 again, and as to a written response --

4 MR. SASSOWER: I gave a written response,
5 six pages.

6 THE REFEREE: All right.

7 MR. STRAUS: In fact, your Honor --

8 THE REFEREE: That will speak for itself, if
9 you did.

10 MR. STRAUS: Specifically, Paragraphs 2
11 and 3 under Charge 7, we state that Respondent
12 acknowledged receipt of the complaint and stated
13 that he did not read it and did not intend to do
14 so.

15 Paragraph 3, Respondent failed to respond
16 to the allegations of misconduct as required.
17 That's all with respect to that letter.

18 THE REFEREE: All right. Go ahead.

19 MR. STRAUS: I offer in evidence as Exhibit
20 52 a copy of a letter dated January 14, 1985,
21 from George Sassower addressed to me consisting
22 of three pages. This is January 14, I believe.

23 THE REFEREE: But under 5 of Charge 7, you
24 have them both lumped together. You have letters
25 dated January 14 --

MR. STRAUS: And the next exhibit would be the January 22nd letter.

MR. SASSOWER: No objection to these letters.

THE REFEREE: All right.

(Marked 52 and 53 respectively)

MR. STRAUS: If your Honor pleases, Exhibit 53 is a letter dated January 22nd, 1985, addressed to me from George Sassower.

THE REFEREE: You separated them.

MR. STRAUS: That's correct.

MR. SASSOWER: Your Honor, with respect to the letter of January 22, 1985, so that there is some semblance of order, may I now offer into evidence the minutes of December 19 --

THE REFEREE: No.

MR. SASSOWER: He offered, could you look at the letter, just look at the letter?

THE REFEREE: I saw the letter.

MR. SASSOWER: That's not the letter. Just glance at the letter.

MR. STRAUS: I don't see anything annexed. You quote something.

MR. SASSOWER: Excuse me?

MR. STRAUS: You mean enclosed is a copy of

1
2 my affidavit. I have no objection to your
3 affidavit going in. That's offered only to the
4 correspondence between --

5 MR. SASSOWER: May I? There is not a single
6 decretal paragraph which complies with his
7 Honor's determination.

8 You must understand on January 22 I didn't
9 have the minutes but I refer to what Judge
10 Gammerman did on December 19.

11 MR. STRAUS: Mr. Sassower says I'm offering
12 that in evidence as part of the correspondence
13 between you and I and if that wasn't included
14 there's no point in offering it in evidence.

15 If you wish to make an offer independently why
16 don't you do so on your case?

17 MR. SASSOWER: Okay.

18 MR. STRAUS: Now, 54. I offer in evidence
19 as Exhibit 54 a letter dated January 28, 1985,
20 from George Sassower addressed to me and annexed
21 to that are three pages numbered 9, 10 and 11.
22 So this would be a four page document, in toto.
23 That would be 54 in evidence.

24 THE REFEREE: Received in evidence as
25 Petitioner's Exhibit 54.

(Marked 54 in evidence)

MR. STRAUS: Your Honor, as 55 in evidence, I have a one-page document which consists of a letter addressed to Mr. Sassower from me dated January 29, 1985, and a response on the bottom of that page, dated January 30, 1985, from Mr. Sassower.

So there are actually two letters on the one document.

THE REFEREE: Show it to Mr. Sassower.

MR. SASSOWER: Objection as to what Mr. Straus said in this letter, Judge. I object to his opinion.

THE REFEREE: Objection overruled.

MR. STRAUS: This would be 55 in evidence.

(Marked 55 in evidence)

MR. STRAUS: If your Honor pleases, that concludes our presentation for today. It concludes our presentation with respect to Charge 7.

We would be prepared to have Mr. Postel, I believe, testify on the next date which would be this Thursday, and, after that --

MR. SASSOWER: Your Honor, I was handed some papers.

1
2 THE REFEREE: Wait a minute.

3 MR. SASSOWER: Before he finishes that --

4 THE REFEREE: You will extend the Court --
5 some -- no, sir -- sit down, please.

6 MR. SASSOWER: I have to be excused on
7 Thursday.

8 THE REFEREE: Mr. Sassower, wait your turn.

9 MR. STRAUS: It was my understanding when we
10 fixed the schedule that we would meet on the 4th,
11 which is today, and the 6th.

12 THE REFEREE: Yes.

13 MR. STRAUS: And that we'd meet every Tuesday
14 and Thursday with the exception of March 18,
15 which Mr. Sassower asked for as a day off and we
16 would resume after that on the 20th.

17 THE REFEREE: My notes so indicate.

18 MR. SASSOWER: At this --

19 MR. STRAUS: When I spoke to both Mr. Postel
20 and Mr. Schneider, we arranged with them for Mr.
21 Schneider to appear here today and Mr. Postel
22 to make himself available to appear on this Thurs-
23 day, which would be the 6th, and I would like
24 to adhere to that schedule.

25 Mr. Postel has been on the witness stand

1
2 for a full day already.

3 THE REFEREE: Now you may be heard, Mr.
4 Sassower.

5 MR. SASSOWER: Your Honor, we make ar-
6 rangements and things come up.

7 First of all, when the arrangements were made
8 there was no thought of going to the Appellate
9 Division.

10 THE REFEREE: What?

11 MR. SASSOWER: There was no thought of going
12 to the Appellate Division, in any event --

13 THE REFEREE: You are saying you can't be
14 here Thursday. Why not?

15 MR. SASSOWER: I have to go to the Appellate
16 Division with those two orders to show cause.

17 THE REFEREE: Which is a few blocks away from
18 here.

19 MR. SASSOWER: But, I'm in White Plains.

20 THE REFEREE: You will be at the Appellate
21 Division 9:30 in the morning.

22 MR. SASSOWER: Not Wednesdays. Wednesday
23 is conference day.

24 THE REFEREE: It's Thursday we're talking about
25 not Wednesday.

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2 MR. SASSOWER: Just bear with me for a
3 moment.

4 THE REFEREE: You're talking about Wednesday
5 and we're talking about Thursday.

6 MR. SASSOWER: Let me finish everything.
7 I have to be at the Appellate Division, Second
8 Department.

9 THE REFEREE: At what time?

10 MR. SASSOWER: I can juggle it around.

11 THE REFEREE: Tell me when and what time, sir.

12 MR. SASSOWER: Let me give you all the places
13 that I have to be.

14 THE REFEREE: At what time?

15 MR. SASSOWER: I'd like to be there tomorrow
16 afternoon, your Honor.

17 THE REFEREE: Tomorrow? Go ahead. You can
18 spend all day there.

19 MR. SASSOWER: Listen --

20 THE REFEREE: We don't have a session tomorrow.

21 MR. SASSOWER: Listen, your Honor, please.
22 I have four matters in the Appellate Division,
23 First Department where I sent out papers over a
24 week ago and I haven't been able to get there.
25

THE REFEREE: When? You have all day tomorrow.

1
2 Right? Does it pertain to this matter?

3 MR. SASSOWER: Yes.

4 THE REFEREE: So, tomorrow, there are no
5 sessions scheduled.

6 MR. SASSOWER: Then I just got an order
7 with notice of settlement which is something else.
8 It's related but it's something else. I've got
9 to draw up papers and go to the Appellate Division
10 First Department and Second Department with respect
11 to this.

12 Now, when am I going to draw these papers
13 up since I haven't slept in two nights?

14 Somehow, if I can stay awake tonight, I
15 might get half-way through it, but, so, I had
16 intended that tomorrow I would somehow fit in
17 the First Department, Second Department and take
18 care of a few other matters.

19 Mr. Schneider gave me these papers returnable
20 on Friday.

21 It's the most horrible thing that I have
22 ever seen in thirty-five years of practice.

23 THE REFEREE: Sir --

24 MR. SASSOWER: I have to prepare papers on
25 it.

1
2 THE REFEREE: What is your application?

3 MR. SASSOWER: I want to cancel Thursday
4 because --

5 THE REFEREE: So it took you five minutes
6 to say so.

7 MR. SASSOWER: Because I had to tell you why.

8 MR. STRAUS: If your Honor pleases, I oppose
9 the application for this reason, no Court is di-
10 recting --

11 MR. SASSOWER: One more thing. I'll have
12 to ask your Honor somehow to have subpoenaed of-
13 ficial records from the County Clerk's Office
14 and the Appellate Division, because since Mr.
15 Schneider brought nothing and I don't have many
16 of these things, or they can be located immediate-
17 ly, I'll have to get the official records because
18 I tell you, your Honor, what he has said is nonsense.
19 Doesn't exist and I want to get the original
20 records from the County Clerk's Office and from
21 the Appellate Division.

22 Now, how long that will take, I don't know,
23 but I'll try to -- what's today -- Tuesday --
24 I'll try to send out a subpoena duces tecum to
25 your home tonight to take out -- the last mail

mail is 11 o'clock tonight, I'll send it to your home.

THE REFEREE: Don't send it to my home. I'm at 111 Livingston Street.

MR. SASSOWER: You won't be there Thursday. If you don't get it Wednesday this means you won't see it until Monday, or, I'll send one to Livingston Street and one to your home, so whichever one you get, fine, just understand they are duplicates, if that's all right with your Honor, but then you have to send them back to me. I have to serve them on the County Clerk. I have to serve them on the Appellate Division because if Mr. Postel is not going to bring anything, if Mr. Postel is not going to bring anything, I just have to get official records.

One more thing, your Honor, which is very important.

The concluding remark of your Honor to Mr. Postel was, "You bring what you believe is relevant."

THE REFEREE: Yes.

MR. SASSOWER: Let's go over that. I don't know if the letter which Mr. Straus sent out

Friday and which I received yesterday afternoon, is his position or Mr. Postel's position.

MR. STRAUS: It's clearly my position. There's no question about it.

MR. SASSOWER: Let me finish.

THE REFEREE: You have. You got a quick answer, so why finish?

MR. SASSOWER: No, no, no.

THE REFEREE: Yes, yes.

MR. SASSOWER: I'll tell you why, when Mr. Postel testified he did not testify as to Mr. Straus' position. He testified as to his position.

THE REFEREE: Sir, Mr. Sassower, there is only one matter on the agenda now, this continued hearing on Thursday, period, that's the only thing.

MR. SASSOWER: I need certain documents and I don't have them available.

THE REFEREE: You said you had them all in your office or your home.

MR. SASSOWER: Some of them are there, most of them are there.

I've spent every day, at least, two, three hours trying to assort them. It will take me weeks to assort these things.

1
2 MR. STRAUS: If your Honor pleases, may I
3 be heard on this question of adjournment?

4 MR. SASSOWER: This was not caused by me.
5 You have to understand that.

6 MR. STRAUS: I don't know what wasn't
7 caused by Mr. Sassower, but let me be heard.
8 You have been making an application for an adjourn-
9 ment for fifteen minutes. Number one.

10 Official records, I don't know why Mr.
11 Sassower needs official records or should be
12 required to subpoena official records since every
13 document which we've offered in evidence, which
14 every witness has been asked about is a document
15 which he either authored or received or was
16 served on him.

17 Time and time again, we've heard that he has
18 the documents, but he has a terrible task in
19 sorting through them.

20 Well, this matter has been on ready for a
21 hearing for over a month.

22 On January 30, Mr. Sassower insisted that
23 we start a hearing the very next day, if we
24 possibly could, and he would like to have the
25 hearing continue on consecutive days until it was

1
2 over, and he was supposedly aghast at the fact
3 that we would not be appearing on consecutive
4 days, but only would be here two days a week.

5 Now he wants time out in excess of three
6 days a week which are already available to him.
7 He has three days every week. We only meet twice
8 a week and that's not enough for him to institute
9 additional actions which he wants to bring in
10 other courts.

11 We haven't been stayed in this proceeding.
12 The papers that were served on me tomorrow which
13 Mr. Sassower intends to deliver to the Appellate
14 Division are a re-hash of what he applied for
15 previously.

16 I seriously doubt that a stay will be grant-
17 ed.

18 I can't see any reason for the court to re-
19 verse its decision since they previously denied
20 the same relief on a prior occasion, as he, in
21 fact, indicates in his papers.

22 Now if Mr. Sassower wants to go pursuing
23 additional litigation and Mr. Schneider indicated
24 that he was served with an additional three act-
25 ions, just this week by Mr. Sassower. He can do

1
2 that on the three days a week that have been
3 allotted to him.

4 However, we have --

5 MR. SASSOWER: It's an absolute lie.

6 THE REFEREE: Mr. Sassower, I've permitted
7 you to talk.

8 MR. SASSOWER: Of course.

9 THE REFEREE: Extend the same courtesy
10 to Mr. Straus.

11 MR. SASSOWER: What he knows about personal-
12 ly --

13 THE REFEREE: Let's cut it short. Application
14 for delay is denied.

15 I'll give you 11 o'clock, instead of 10
16 o'clock on Thursday.

17 MR. STRAUS: I shall have Mr. Postel
18 here or if we can't have him, I'll have Mr.
19 Raffe.

20 MR. SASSOWER: I have to know beforehand.
21 I have to know what documents to bring.

22 MR. STRAUS: Let's put it on the record.
23 I haven't called Mr. Postel. We can try to
24 reach him now to confirm that we'll be here at
25 eleven, if you'd like to wait.

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2 MR. SASSOWER: I'd like his time records
3 here.

4 MR. STRAUS: The Referee has ruled that
5 you didn't have a right to his time records so
6 you're repeating it again, what you'd like.

7 MR. SASSOWER: His activity records, --

8 THE REFEREE: Sir, call Mr. Postel.

9 MR. STRAUS: May we take a brief recess.

10 THE REFEREE: There will be a fifteen minute
11 recess.

12 (Recess ensues)

13 MR. STRAUS: If your Honor pleases, Mr.
14 Postel would be available. He would prefer to
15 come at 11:30, if that's agreeable.

16 THE REFEREE: All right.

17 MR. STRAUS: Eleven-thirty he'll definitely
18 be here.

19 THE REFEREE: Eleven-thirty, Mr. Sassower.

20 MR. SASSOWER: Your Honor, I'm going --

21 THE REFEREE: Court is adjourned for the day.

22 MR. SASSOWER: Let me put on the record two
23 things.

24 I'd like to finish what I started saying
25 before. I have absolutely no intention of going into

1
2 the issue of the matter stated in my proposed ord-
3 er to show cause, but his Honor, as part of the
4 transaction this morning, just before recess, saw
5 fit to state that he denies that the conversation
6 with Mr. Schneider was ten minutes. His Honor does
7 not see fit to make any comment about the propriety
8 of that conversation.

9 His Honor --

10 THE REFEREE: Sir --

11 MR. SASSOWER: -- his Honor sees nothing
12 wrong with these conversations with the attorney
13 for the Grievance Committee --

14 THE REFEREE: Sir --

15 MR. SASSOWER: -- that have been going on
16 constantly.

17 THE REFEREE: Sir --

18 MR. STRAUS: What conversations are you
19 possibly talking about?

20 MR. SASSOWER: What Conversations? You ad-
21 mitted to it on Friday, that they have been going
22 on.

23 MR. STRAUS: Mr. Sassower, these things take
24 place only in your imagination.

25 THE REFEREE: Mr. Court Reporter, the court
is adjourned for the day.

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LIST OF WITNESSES

CROSS

Donald F. Schneider 661

LIST OF EXHIBITS

PETITIONER

RESPONDENT

49 in evidence P. 760	Z id.	P. 684.
50 in evidence 760	AA id.	689
51 in evidence 761	BB id.	695
52 in evidence 763		
54 in evidence 765	CC id.	700
55 in evidence 765	DD id.	716
	EE id.	736.