

1 SUPREME COURT OF THE STATE OF NEW YORK

2 APPELLATE DIVISION: SECOND JUDICIAL DEPARTMENT

3 ----- x

4 In the Matter of George Sassower, :

5 an attorney and counselor-at-law, :

6 GRIEVANCE COMMITTEE FOR THE SECOND :

7 AND ELEVENTH JUDICIAL DISTRICTS, :

8 Petitioner, :

9 GEORGE SASSOWER, :

10 Respondent. :

11 ----- x

12 Brooklyn, New York

13 March 6, 1986

14 B e f o r e :

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

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

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

20  
21  
22  
23 ARTHUR BLAUSTEIN  
24 Certified Shorthand Reporter  
25

1  
2 MR. STRAUS: If your Honor pleases, I've  
3 just received papers from Mr. Sassower which  
4 appear to be returnable at the Appellate Division  
5 March 13, which is a scheduled hearing date.

6 I don't really know what Mr. Sassower ar-  
7 ranged to have a motion returnable on a scheduled  
8 hearing date.

9 However, he has apparently seen fit to do so.

10 It is my intention to request that the date  
11 be changed.

12 I expect to communicate with the Appellate  
13 Division, and I think it was --

14 THE REFEREE: Will that take all day, Mr.  
15 Sassower?

16 MR. SASSOWER: First of all, your Honor,  
17 I gave it to -- I didn't pick the date. I don't  
18 know.

19 THE REFEREE: Say you don't know.

20 MR. SASSOWER: I didn't even know the date  
21 until I came here to conform it.

22 THE REFEREE: I asked how long it will take.

23 MR. SASSOWER: I have no idea, your Honor.

24 I have no problem if Mr. Straus changes the  
25 date to an earlier date, okay, a day earlier, if

you want, but I didn't change the date.

MR. STRAUS: I may make that representation to the Court that you have no objection putting it on for the 12th.

MR. SASSOWER: I didn't see the judge and I didn't put the date in or anything else.

I think it would be appropriate, Mr. Straus, to withdraw your remarks, but that's up to you.

THE REFEREE: Are you ready to proceed here?

MR. SASSOWER: Do you want to ask any more questions on direct?

MR. STRAUS: You're on cross-examination.

MR. SASSOWER: I just asked.

MR. STRAUS: I have no right at this point. You're on cross-examination.

MR. SASSOWER: I just asked, Mr. Straus.

I R A P O S T E L, previously sworn, recalled, testified as follows:

CROSS EXAMINATION

BY MR. SASSOWER:

Q Mr. Postel, did you bring any records with you?

A No, I did not.

Q Do you recall his Honor telling you to bring those records that you believed relevant, is that correct?

1  
2 A All the papers that I have in my office other  
3 than possibly the motion to -- before Judge Klein for a  
4 rehearing, you have copies of.

5 Q The question was, did you hear his Honor instruct  
6 you to bring those papers which you felt were relevant?

7 Did you hear that question?

8 A Yes, I heard his Honor and I looked through the  
9 files and I told you that all the papers that I have with  
10 the exception of the motion before Judge Klein for a re-  
11 hearing on the contempt conviction of Mr. Raffe, you have  
12 copies of.

13 Q And you find nothing else --

14 MR. STRAUS: Objection. Asked and answered.

15 THE REFEREE: Overruled.

16 Q -- that you feel is relevant? That's all?

17 A No.

18 Q Since we recessed on Thursday, did you speak  
19 to Mr. Straus as to the subject matter of your testimony?

20 By the way, before you answer that question,  
21 this gentleman --

22 THE REFEREE: He's a --

23 MR. SASSOWER: I mean --

24 THE REFEREE: -- he's an associate of Mr.  
25 Straus, number one and, Mr. Sassower, you asked



for a public hearing.

MR. SASSOWER: I understand that, but witnesses are excluded.

I wanted to make the inquiry to make sure.

THE REFEREE: Is he going to be a witness?

MR. STRAUS: No, we have given a -- we have given a list of witnesses to Mr. Sassower. He's not one of them.

THE REFEREE: All right.

Q Would you answer the last question?

A Would you repeat the question to me?

(Question repeated)

THE REFEREE: The Court Reporter will read.

A No.

Q Did you ever speak to Mr. Straus as to the subject matter of your testimony -- of your -- did you ever speak to Mr. Straus as to substantive issues?

A Yes.

Q And when was that, sir?

A I don't recall the exact date but it was about a week or two before the hearing started.

Q And have you spoken to him -- did you speak to him after that time?

A Yes.

Q As to --

A Not as to subject.

Q As to -- not as to his reasons or anything of that nature, as to subject?

A No.

Q Did he tell you what I was charged with insofar as you were concerned?

A He gave me a copy of the charges.

Q Did you read them?

A Yes.

Q Did you respond to him in any respect as to the contents thereof, corrections, your versions, differences?

A We discussed it but I didn't make any corrections, in the charges.

Q Now, insofar as -- do you have a copy of the charges?

A Not with me.

Q I direct your attention to Charge 6, which is the charge which you testified to last Thursday.

MR. SASSOWER: May I show him, your Honor, copies, unless it's marked up, because I like to identify things by their number?

THE REFEREE: They're the pleadings.

1 Postel-cross 785.

2 MR. SASSOWER: It's not marked. I think

3 it's deemed marked.

4 THE REFEREE: It's Referee's Exhibit 1 for

5 identification.

6 MR. SASSOWER: Thank you, your Honor.

7 Q I show you Charge 6, and that was, was it not,

8 sir, the subject of the charge in which you are involved,

9 is that correct?

10 A I don't think I'm involved in any of the charges

11 but this is the charge that Mr. Straus and I discussed.

12 Q Okay. Was there any writings between you and

13 Mr. Straus, any written exchange?

14 A I believe the only letter I got from Mr. Straus

15 was a letter telling me of dates.

16 There were no writings with respect to Charge 6

17 between myself and Mr. Straus.

18 Q I want you to know, Mr. Postel, all of my quest-

19 ions whether stated or otherwise eliminate all conversat-

20 ions as to conveniences, things of that nature.

21 A Very well.

22 Q Okay.

23 A Yes.

24 Q How many times did you discuss Charge 6 with

25 him?

1  
2 A I would say the time I was in his office --

3 Q And how long --

4 A I was only there once.

5 Q How long did you remain in his office?

6 A An hour, maybe a little more, not much longer  
7 than that.

8 Q Did Mr. Straus refer your attention to anything  
9 else besides Charge Number 6?

10 A I don't understand when you say anything else.

11 Q Did you discuss any other charge in detail?

12 A No.

13 Q Except Charge 6.

14 A Just Charge 6.

15 Q So, but you read the other charges?

16 A Yes.

17 MR. SASSOWER: Mr. Straus, can you give us  
18 the exact date that he was in your office?

19 THE WITNESS: Maybe I can help you out. It  
20 was a Friday. That much I remember. I think it  
21 was a Friday.

22 It was February 14.

23 Q When you went to see Mr. Straus, did you bring  
24 any papers or documents with you?

25 A No.



1

2

Q Did you take notes of the conversation?

3

A No.

4

5

Q Did you see Mr. Straus take notes of the conversation in any respect?

6

A I don't recall him taking notes.

7

8

Q Could you tell us at this time in sum and substance what you told him at that time? As to the substance.

9

10

11

A I discussed with Mr. Straus my being retained by Mr. Raffe and the circumstances, basically to which I testified to last week.

12

13

Q Did he ask you when you were retained?

14

A I believe he did.

15

Q What did you tell him?

16

A I told him July 15 or thereabouts.

17

Q And you told him the conversation as you told it to his Honor, as to the circumstances upon your retainer?

18

A Yes.

19

20

21

22

Q Did he ask you any questions as to whether you had any communications -- whether you had any written communication on the subject with Mr. Sassower or Mr. Raffe regarding such retainer?

23

A I don't believe so.

24

25

Q Did he ask you to send him any material with respect to Charge 6?

1  
2 A No.

3 Q Are you aware either by either seeing a copy,  
4 having a copy or being told about it, of the communication  
5 written by Mr. Straus to his Honor? I think dated last  
6 Friday, which would have been February 28. Am I correct  
7 about the date?

8 MR. STRAUS: I think it's Friday.

9 MR. SASSOWER: Can I have a copy of the  
10 exhibit, please?

11 MR. STRAUS: It's a Referee's exhibit, I  
12 think.

13 MR. SASSOWER: Is it a Referee's exhibit?

14 MR. STRAUS: I don't know if it was marked  
15 as a Referee's exhibit. You have a copy and the  
16 Referee certainly has it.

17 MR. SASSOWER: I like to mark copies. I  
18 didn't know it was a Referee's exhibit. I didn't  
19 mean to deprive you of a copy.

20 THE REFEREE: Let me identify it.  
21 That was Referee's Exhibit 5, the letter.

22 MR. STRAUS: I think 5, your Honor, was a  
23 different letter.

24 THE REFEREE: All right.

25 MR. STRAUS: I mean, I think on the record,

I stated that copies had been sent to you and to Mr. Sassower and then I gave you one at that time.

THE REFEREE: That will be Respondent's Exhibit GG for identification deemed marked.

(So marked)

Q Were you aware of -- at any time of any communication by Mr. Straus to his Honor?

A No.

THE REFEREE: With a copy to you.

MR. SASSOWER: With a copy to me, yes.

THE REFEREE: Let the record so reflect.

MR. SASSOWER: I think the exhibit so states anyway.

THE REFEREE: The exhibit is not in evidence.

MR. SASSOWER: I understand that, your Honor.

Q Now, you stated last week that on any paper that I mail to Mr. Raffe in the last couple of months at least, he would mail it to you or give it to you or give a copy to you, is that correct?

A My understanding and my discussions with Mr. Raffe were that all the papers that he was coming to me, whether he, in fact, sent it to me, I don't know, but if you sent something to Mr. Raffe, normally it was sent

1  
2 to me.

3 Q Would you get this information or material from  
4 the Feltman firm, the Kreindler firm or the Nachamie firm  
5 also?

6 A Excuse me?

7 Q Would you get also documents that I sent to  
8 them, would you receive a copy?

9 A Are you saying if you sent it to them, would they  
10 send it to me?

11 Q Yes, a copy, on occasions.

12 A No, possibly, but --

13 Q Okay. Were there -- when Mr. Raffé sent you  
14 material, did he ever send you a note along with the ma-  
15 terial?

16 A No.

17 Q Did he ever discuss the material that he sent to  
18 you?

19 A No.

20 Q Did you ever discuss it with him?

21 A Possibly, on certain matters. Certain of the  
22 papers I may have called him.

23 Q Let's take individual matters.

24 A I have absolutely no independent recollection of  
25 what pieces of paper I may have called Mr. Raffé to talk

about.

A Let's talk about individual papers.

MR. SASSOWER: This marked already?

MR. STRAUS: I don't think so.

Q I show you a transcript of a judgment --

THE REFEREE: Has it been identified?

MR. SASSOWER: That's what I asked Mr. Straus.  
He said he did not think so.

THE REFEREE: That will be Respondent's HH  
for identification.

(so marked)

Q Are you familiar with that document, sir?

A I'm not sure.

Q If not the document, the subject matter of the  
document, which is a transcript of judgment.

A I believe I am, yes.

Q And, would you say that this is a judgment in  
favor of Hyman Raffé against Eugene Dann, Robert Sorrentino  
and Puccini Clothes?

A That's what it looks to me.

MR. SASSOWER: I offer this in evidence.

MR. STRAUS: If your Honor pleases, may I --  
may we have the purpose of the offer to a judgment  
which is not apparently covered by any of the



charges?

MR. SASSOWER: It will be apparent within three questions.

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

MR. SASSOWER: I make a representation to the Court --

THE REFEREE: Then withhold it until that point.

MR. SASSOWER: Okay.

Q Were you sent a motion made by me on behalf of Hyman Raffé --

THE REFEREE: When?

Q -- which was returnable January 29, 1986, wherein I stated I was the attorney for Hyman Raffé in that action?

A You'd have to show it to me. Off the top of my head, Mr. Sassower, I can't remember which documents I received and which I didn't receive or what they say.

MR. SASSOWER: Your Honor, will you give me a moment?

Q I show you this document and --

MR. SASSOWER: -- may we have it marked?

THE REFEREE: That will be Exhibit II.

MR. SASSOWER: May we have it marked on the back of the first page so that it's --

and I'll substitute the first --

THE REFEREE: No, don't give me a document that you're going to substitute.

MR. SASSOWER: When I use it for court, I don't want to have the appearance of a document, so can we mark it not on the first page?

THE REFEREE: He marks them all on the back. Mark this on the back.

(So marked)

Q I show you Respondent's II for identification and with the exception of the affidavit or affirmation of service, I ask you if you've ever seen those papers before?

A I believe I did.

Q And would you say you saw it within a few days after the date of notice of motion?

A Probably.

MR. SASSOWER: I offer it in evidence.

MR. STRAUS: May I see it, Mr. Sassower?

MR. SASSOWER: Sure.

Your Honor, while he's looking at it, I'm running a fever and I'm getting parched rather rapidly, so, may I ask for, not too frequent, but not infrequent breaks so I can get some water?

THE REFEREE: Go ahead.

1  
2 MR. SASSOWER: Thank you, very much and  
3 I'll try to have it while Mr. Straus is look-  
4 ing at documents so it doesn't hold up every-  
5 thing.

6 Judge --

7 THE REFEREE: I'm going to the men's room  
8 now.

9 MR. SASSOWER: I want that issue left for  
10 papers and I should not be in a position where I  
11 have to reply to your Honor. Okay. I think it's  
12 unfair.

13 (Short recess)

14 MR. STRAUS: With respect to the exhibit  
15 which was offered in evidence, I have no object-  
16 ion to it being received, your Honor.

17 THE REFEREE: All right, received in evidence  
18 as Respondent's Exhibit II.

19 Q That notice of motion and supporting papers  
20 makes reference to the judgment which was marked as  
21 Respondent's HH for identification, is that correct?

22 A I believe so.

23 Q Now, would you say, and his honor is going to  
24 look at it, but just so we all know what we're talking about,  
25 that that motion has as its ultimate end the satisfaction

1  
2 of a judgment in favor of Hyman Raffe, is that correct?

3 A If that's what it asks for, that's what it asks  
4 for.

5 Q As its ultimate end.

6 Now, when you received that notice of motion, did  
7 you communicate with me in writing, in sum, in substance,  
8 or with the court, in sum and substance, stating that  
9 you were the attorney for Hyman Raffe, yes or no?

10 A I know I didn't call you.

11 Q I said in writing.

12 A I know I didn't contact you in writing or other-  
13 wise.

14 Q Okay.

15 A All I can remember --

16 Q I'm talking about only writing, then we'll get  
17 to --

18 MR. STRAUS: He's attempting to answer  
19 the question.

20 A On the return date of the motion there was sub-  
21 mitted an affidavit, I believe, that I prepared for Mr.  
22 Raffe when he said he didn't want the -- that the motion  
23 was made without his authority, without his consent and  
24 he didn't want -- he wanted the motion withdrawn.

25 Q In Nassau County.

A I believe so, yes, a copy of it was sent to you.

Q I have no copy of it.

MR. STRAUS: Objection. Is that a question?

MR. SASSOWER: That's, that's a remark.

THE REFEREE: \* You are not on the witness stand.

A I believe a cross-motion was also made.

Q In Nassau County.

A Yes. I'm sure a copy was sent to you at 51 Davis Avenue in White Plains.

Q I show you this document. Do you remember the date it was sent to me?

A No, I don't.

Q Was an original sent to the court?

A Yes.

Q Was a copy sent to the Nachamie firm?

A Yes.

Q Did you receive the opposing papers from the Nachamie firm?

A You will have to show them to me, Mr. Sassower. I've received so many papers that I can't tell you which one I received and what I didn't receive.

Q Wait a second. We'll give you the papers. You didn't receive so many papers. Now we're talking about



1  
2 Nassau County.

3 A I know there was an affidavit, a cross-motion  
4 submitted in Nassau County. I remember that.

5 Q Did you receive any papers from the Nachamie  
6 firm?

7 A You are going to have to show me what I received  
8 or not because off the top of my head I don't know what I  
9 received from whom.

10 THE REFEREE: It's the Nassau County Supreme  
11 Court where the notice of motion was made return-  
12 able.

13 MR. SASSOWER: Yes.

14 Q I show you --

15 THE REFEREE: Can I have Exhibit II, please?

16 Q I show you an affirmation in opposition by  
17 Arthur Goldstein of the Nachamie firm and annexed to it  
18 was a number of exhibits and I ask you if you received this  
19 affirmation as part of a number of exhibits?

20 A I believe I did.

21 Q Now, did you read the affirmation in opposition?

22 A I'm sure I looked at it. Did I read it word for  
23 word, I don't recall.

24 Q Now, did you receive this affirmation in opposit-  
25 ion before or after you sent out the notice of cross-motion

1  
2 for you to be substituted as attorney?

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

4 We seem to be very far afield from Charge 6.

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

6 THE REFEREE: Overruled.

7 A I don't know. I can't tell you because I don't  
8 know the date it was mailed out and I don't know the date  
9 that I received that so I can't tell you.

10 All I can tell you is that the cross-motion was  
11 mailed out timely enough so that it was a timely made  
12 cross-motion with respect to the calendars in Nassau County.  
13 So, it must have been mailed out two or three days after.

14 THE REFEREE: Before the return date.

15 THE WITNESS: Before the return date.

16 Q And that motion was referred to Judge Stanley  
17 Harwood in Supreme Court, Nassau County.

18 A I think that's correct.

19 Q I show you a reply affidavit -- affirmation,  
20 dated February 14 and ask you, --

21 MR. SASSOWER: Do you want to mark it for  
22 identification?

23 A I don't think that exhibit was marked, that last  
24 one.

25 Q You're correct.

(off record ensues)

MR. SASSOWER: Will you skip a letter, Mr. Stenographer, and mark this document for identification?

THE REFEREE: What do you mean skip a letter? The next letter is JJ.

MR. SASSOWER: Could we make it KK because we'll make JJ the affirmation in opposition, so we'll have them in consecutive order, if that meets with your Honor's approval?

THE REFEREE: All right. Exhibit JJ for identification.

(Marked KK for identification)

Q Did you receive from anybody that reply affirmation?

A Can I see it?

Q I'm sorry.

THE REFEREE: You're showing him KK?

MR. SASSOWER: Yes.

A I can't be a hundred percent sure but I probably got it from Mr. Raffe.

Q And did you read it?

A I can't remember.

Q Well, would you agree, sir, if you'll glance at it,

1  
2 there is no reference made in the reply affirmation of mine  
3 making any reference to any cross-motion by you?

4 MR. STRAUS: I object, your Honor. What  
5 would that establish other than the fact that  
6 it's not in Mr. Sassower's papers and again where  
7 are we going with respect to this?

8 THE REFEREE: Sustained.

9 MR. STRAUS: There is no question, Mr. Postel,  
10 the objection has been sustained.

11 THE REFEREE: I understand.

12 Q When you return to your office, send a copy  
13 of your notice of cross-motion in Nassau County to Mr.  
14 Straus?

15 MR. STRAUS: If your Honor pleases, I don't  
16 know the purpose of that.

17 The witness is here for cross-examination.

18 I'd like Mr. Sassower to conclude his cross-  
19 examination.

20 MR. SASSOWER: If he didn't bring something  
21 which is vital, then I'll ask they come back with  
22 the paper.

23 MR. STRAUS: I don't know that any of this  
24 is relevant to start with, much less to direct the  
25 witness and Mr. Sassower has had ample opportunity

1  
2 to get any papers he wanted with respect to  
3 this case. He's had over a month to do so.

4 MR. SASSOWER: Where am I going to get a  
5 non-existent paper from?

6 THE REFEREE: Go ahead, sir.

7 MR. SASSOWER: Okay.

8 THE REFEREE: Mr. Postel, if you can find  
9 a copy, send it to Mr. Straus, please.

10 THE WITNESS: I'll send it to Mr. Straus.

11 THE REFEREE: That cross-motion, of course,  
12 an affidavit, were filed in the Supreme Court of  
13 Nassau County.

14 THE WITNESS: Yes.

15 Q I show you a notice of motion in that same case.

16 MR. SASSOWER: May I have it marked for  
17 identification, please?

18 Q And ask you if you received that document, sir?

19 MR. STRAUS: If your Honor pleases, if all --  
20 if Mr. Sassower is going to be introducing various  
21 documents pertaining to some motion, couldn't  
22 we at least have an offer of proof as to the  
23 relevance of these documents?

24 THE REFEREE: What's the purpose of demon-  
25 strating these papers were served?



1  
2 MR. SASSOWER: The relevance of showing these  
3 papers was that there never was any instruction  
4 given by Mr. Raffé or anyone else regarding this  
5 case with my proceeding on his behalf.

6 In fact, the testimony will be that I proceed-  
7 ed in Nassau County under confirmed instructions.

8 MR. STRAUS: If your Honor pleases, then I  
9 would suggest that this is not the appropriate  
10 way to prove that since it doesn't bear on that  
11 issue at all.

12 If Mr. Sassower wants to offer direct  
13 evidence to indicate that he was authorized to  
14 bring these actions, he's certainly free to do  
15 so, but nothing he's introduced in evidence goes  
16 to that issue.

17 I am showing your Honor --

18 THE REFEREE: He's attempting to show in  
19 reverse order that nobody objected, so, therefore,  
20 he must have had clearance to go ahead with it.

21 Is that your position, Mr. Sassower?

22 MR. SASSOWER: Absolutely, your Honor, and  
23 thank you.

24 THE REFEREE: And Mr. Postel's response  
25 earlier was that Mr. Raffé's affidavit in the cross-

1  
2 motion -- and cross-motion were filed in the  
3 Supreme Court of Nassau County with respect to  
4 this case on which Mr. Raffe alleged that you  
5 had no right to bring a legal action in this  
6 case and Mr. Postel will attempt to locate a  
7 copy of it and send it to Mr. Straus and you  
8 have already stated --

9 MR. SASSOWER: I never got it. In fact, my  
10 statement in the affidavits are to the contrary.

11 Q Mr. Postel, I show you this notice of motion  
12 which was made out February 19, 1986, and ask you if you  
13 received a copy of that notice of motion?

14 A I think I did.

15 THE REFEREE: That will be LL.

16 MR. SASSOWER: We're still missing JJ.

17 THE REFEREE: It will be marked Exhibit LL  
18 for identification.

19 Q Did you get that?

20 A I believe I did.

21 MR. SASSOWER: Mark it in evidence, your  
22 Honor.

23 THE REFEREE: Show the document to Mr. Straus.  
24 It's being offered in evidence.

25 MR. STRAUS: Your Honor, in view of your ruling,

I have no objection. You indicated that the entire line of questioning is relevant.

THE REFEREE: All right. It will be received as Respondent's LL.

(So marked)

Q Mr. Postel, with respect to this particular action, did you receive any letters from the Nachamie firm sent to me or sent to Judge Harwood which had a CC, carbon copy to you?

A I don't remember. If you showed it to me, I'll let you know whether I saw it.

In the abstract, Mr. Sassower, I can't tell you what I saw and what I didn't.

Q Unfortunately, I don't have it here. I'll look for it. Did you receive a letter from the Nachamie firm to Judge Harwood asking an adjournment of the motion returnable March 7, 1986, to the end of March, yes or no?

A I don't remember. I don't recall.

Q Well, would you agree, sir -- would you agree that proper legal conduct would be that if you made a motion or cross-motion in this action, that all correspondence by the Arutt firm to the judge or to me would have on it carbon copy to you?

MR. STRAUS: Objection.

1  
2 THE REFEREE: Sustained.

3 MR. SASSOWER: Would your Honor take  
4 judicial notice of the fact that it's proper  
5 practice that when an attorney communicates with  
6 the court, that all attorneys involved in the  
7 case get copies?

8 THE REFEREE: That's what practice -- I  
9 don't know if it was done in this case or not.

10 The witness says he does not recall, period.

11 MR. SASSOWER: Will you give me some time,  
12 your Honor --

13 THE REFEREE: Take all the time you want.  
14 Sit down. You have your papers there.

15 MR. SASSOWER: I don't know if I have pap-  
16 ers, and, I'm -- it's in the correspondence file  
17 and I'm almost positive that none of it from the  
18 Nachamie firm --

19 MR. STRAUS: If your Honor pleases --

20 MR. SASSOWER: -- I make this representation  
21 at this time so that we have some orderly proof.

22 I'm almost certain that none of the correspon-  
23 dence from the Nachamie firm contains on it  
24 carbon copy to Mr. Postel.

25 THE REFEREE: That firm may have been in error.

I don't know.

Q Mr. Postel, --

THE REFEREE: Mr. Postel, was a copy of your cross-motion and Mr. Raffee's affidavit sent to the Nachamie firm?

THE WITNESS: I believe so.

THE REFEREE: Go ahead.

Q Mr. Postel, would you send to Mr. Straus also, in addition to your cross-motion, any correspondence --

THE REFEREE: No, no, let's separate the question.

Let's answer the first question first.

MR. SASSOWER: What's the first question?

THE REFEREE: With respect to any correspondence with Mr. Straus, what correspondence are you talking about?

MR. SASSOWER: No, no, I'm sorry, it was my correspondence.

Q Did you receive -- the first motion was made January 24, if I'm correct. I'm sorry. It was made January 13, with a return date of January 29.

A If that's what it says, that's what it says. I won't dispute what it says.

Q I show you a copy of a letter from the Nachamie



1  
2 firm which does not have your name on it.

3 THE REFEREE: Dated when?

4 MR. SASSOWER: January 31st, sir.

5 THE REFEREE: Mr. Postel, has testified, if  
6 I recall, that a cross-motion, was mailed out two  
7 or three days before the return date, the return  
8 date being January 29, 1986, so, he mailed it  
9 out two or three days before.

10 MR. SASSOWER: Which is fine with me.

11 THE REFEREE: Whether the Nachamie firm  
12 was apprized of it in time, I don't know.

13 MR. SASSOWER: January 31st. My representat-  
14 ion is at the present time that my recollection  
15 is and I'm almost positive, is that all corres-  
16 pondence by the Nachamie firm, that none of it  
17 indicates a carbon copy to you.

18 A I have no recollection, independent recollection  
19 of whether I received it or didn't receive it.

20 Q But your file would show it.

21 A Yes, if I got a copy of it, it's in the office  
22 somewhere.

23 MR. SASSOWER: Would you mark this for  
24 identification then?

25 THE REFEREE: MM.

(so marked)

Q I show you a letter dated January 28, 1986, and ask you if you saw a copy of that, either Mr. Raffe sent it to you or the Nachamie firm sent it to you; it doesn't matter.

A I would assume that I received it from Mr. Raffe.

THE REFEREE: Exhibit NN for identification.

Q In any event, you did not receive it.

THE REFEREE: This will be NN for identification.

MR. SASSOWER: In evidence.

THE REFEREE: All right, no objection?

MR. STRAUS: I haven't seen it.

THE REFEREE: I'm sorry.

MR. STRAUS: I don't know if I have any objection.

No, your Honor, I have to object. What would be the relevance of a letter sent by Mr. Sassower in which he fails to copy Mr. Postel.

How could that be significant with respect to this charge; if he is making the representation that someone else didn't do it, I might understand it, but this is his own letter.

MR. SASSOWER: I'll tell you why. First of

all, it's ante litem modem.

Secondly, the judge's secretary would see immediately that I have communicated, that I did not send a communication to Mr. Postel if he was on the case.

And, thirdly, he eventually received it from Mr. Rafee.

I would expect Mr. Postel, if he did file a cross-motion to say, "Don't send it to Mr. Raffe, send it to me."

MR. STRAUS: Objection.

THE REFEREE: Sustained. There are too many suppositions, suppose this and suppose that.

Objection is sustained.

MR. STRAUS: This will be marked for identification.

THE REFEREE: Mark it NN for identification.

(So marked)

MR. SASSOWER: May I just make one short statement so that the record is clear?

Of course, if Mr. Postel never made such cross-motion, a lot of this material would be unimportant or irrelevant.

Since we don't know that at this time --

1  
2 THE REFEREE: Any further cross-examination?

3 MR. SASSOWER: Yes, I'm trying to get one  
4 case at a time, your Honor.

5 Would you mark this for identification,  
6 please?

7 THE REFEREE: That will be OO for identificat-  
8 ion.

9 We're still missing JJ, that right?

10 MR. SASSOWER: Yes, your Honor.

11 (Received, so marked)

12 Q I show you -- I ask you if you received this  
13 letter from Mr. Raffe or the Nachamie firm.

14 A Probably got it from Mr. Raffe.

15 Q I draw your attention to that paragraph --

16 MR. STRAUS: Objection, it's not in evidence,  
17 if your Honor pleases.

18 MR. SASSOWER: I'll mark it in evidence.

19 MR. STRAUS: Are you offering it in evidence?

20 MR. SASSOWER: Yes.

21 MR. STRAUS: May I see it?

22 MR. SASSOWER: Surely.

23 MR. STRAUS: Objection. This is a letter  
24 from Mr. Sassower.

25 Whoever Mr. Sassower chooses to write to,

that's his business, but it certainly is not binding on the witness nor is it probative.

Q I draw your attention to the second page, the bottom of the second page.

THE REFEREE: The question of this witness --

MR. SASSOWER: Did he receive it from Mr. Raffe?

THE WITNESS: I probably got it from Mr. Raffe.

THE REFEREE: He probably did.

MR. SASSOWER: I want to mark it in evidence.

MR. STRAUS: I object to its receipt in evidence.

How and for what purpose could it be received in evidence since the line of questioning Mr. Sassower seems to be pursuing is to establish that Mr. Postel was not recognized as the attorney or was not sent copies.

If Mr. Sassower chooses to send copies to Mr. Postel, that's not probative of anything. That's not the --

Q Did you respond to this letter in any way, either to the Nachamie firm or anybody else?

A No.



1  
2 Q I draw your attention --

3 MR. STRAUS: It's not in evidence.

4 MR. SASSOWER: I'll offer it in evidence.

5 THE REFEREE: Objection overruled.

6 MR. SASSOWER: Thank you, your Honor.

7 THE REFEREE: It will be received.

8 (Exhibit 00 for identification now received in evidence)

9  
10 Q I draw your attention to the second page and --

11 THE REFEREE: It's in evidence.

12 MR. SASSOWER: I want to ask a question.

13 THE REFEREE: Ask the question.

14 Q The question is --

15 MR. SASSOWER: I cite a lot of cases.

16 THE REFEREE: He said he didn't respond to  
17 it.

18 Q I draw your attention to the bottom part, the  
19 second half of the second page, which states in sum and  
20 substance, "Absent either an executed and filed stipulation  
21 substituting my representation of the plaintiff  
22 pursuant to 321 or an order of this court" -- and I cite  
23 a lot of cases -- and then, I conclude, "There simply  
24 is no motion pending in this court."  
25

MR. SASSOWER: And I'm referring to a

substitution of attorney.

MR. STRAUS: If your Honor pleases, again, at this point, I'll object and I'd like to get back to the original point which was that Mr. Sassower was acting in disregard of Mr. Raffe's instructions not an order of the court, not a substitution of counsel, not as a result of any cross-motion.

The charge is that Mr. Raffe instructed him not to pursue litigation.

How would this be relevant to that issue?

MR. SASSOWER: May I respond, your Honor?

THE REFEREE: Yes.

MR. SASSOWER: I am stating that particularly when I received the complaint of the Grievance Committee, I made it a point to send copies of practically everything to Mr. Raffe and I'm going to take one case at a time.

On this particular case, not only did I send him copies of everything but I never received a communication from anybody that I should not pursue the case.

THE REFEREE: Mr. Postel testified that --

MR. SASSOWER: He said he made a cross-

1  
2 motion.

3 THE REFEREE: Yes, and it's on file in  
4 the Supreme Court of Nassau County and he'll  
5 look at his file and forward a copy to Mr. Straus.

6 MR. SASSOWER: I'm saying, your Honor, that  
7 as late as the beginning of March, I'm writing  
8 to the court. When I wrote to the court -- for  
9 a moment, your Honor -- would I write to the court  
10 and say there is no motion made for a substitut-  
11 ion of attorneys when the court has a copy?

12 THE REFEREE: I don't know.

13 MR. SASSOWER: I'm not crazy to tell a court  
14 that there is no motion there when they have it.

15 MR. STRAUS: It isn't a question of whether  
16 Mr. Postel or any other attorney made a motion  
17 to be substituted.

18 The charge deals with a violation of Mr.  
19 Raffe's instructions, not what other attorneys  
20 wrote, not what a court wrote.

21 This specifically says Mr. Raffe instructed  
22 Mr. Sassower and none of this proof goes towards  
23 that.

24 THE REFEREE: Well, Mr. Sassower is taking  
25 the legal position that unless there is a formal

1  
2 cessation of his duties by court order, that  
3 he's not obliged.

4 MR. SASSOWER: That's precisely what the  
5 courts say.

6 THE REFEREE: That's what you argue.

7 MR. SASSOWER: That's what the courts say.

8 THE REFEREE: That's your argument.

9 MR. SASSOWER: That's my argument also, okay.  
10 Aren't I better off when I say it's my argument  
11 and the court agrees with me?

12 THE REFEREE: Charge 6 only relates to  
13 instructions received by Mr. Raffee, alleged  
14 instructions by Mr. Raffe to you to cease and des-  
15 ist.

16 MR. SASSOWER: My point is I'm sending the  
17 stuff and nobody protests it, okay, now I'm  
18 sending the stuff?

19 THE REFEREE: Don't say nobody protests.

20 MR. SASSOWER: Subject to that, okay.

21 THE REFEREE: Go ahead.

22 MR. SASSOWER: I make the representation  
23 at this point -- that if he filed it or served it,  
24 I certainly didn't get a copy of it at 51 Davis  
25 Avenue or anyplace else.

1  
2 MR. STRAUS: The point is, it wouldn't  
3 make any difference whether he filed it or not,  
4 it would not.

5 Q In any event, would you agree that no order has  
6 ever been issued?

7 MR. SASSOWER: Withdrawn.

8 THE REFEREE: Are you saying, Mr. Sassower,  
9 too, that a client cannot fire his lawyer unless  
10 he does so through legal, through the court?

11 MR. SASSOWER: Precisely. I'll give you the  
12 case.

13 No, I didn't say that.

14 I said something else.

15 MR. STRAUS: The problem is that the reason  
16 that I persist and I don't want to try your  
17 patience, but it has always been our position  
18 that Mr. Sassower was disabled from serving as  
19 counsel by virtue of the various court orders.

20 THE REFEREE: That's something else. That's  
21 other than Charge 6.

22 MR. STRAUS: That's correct. That's why,  
23 with respect to Charge 6 which is the only area  
24 that Mr. Postel is testifying to, that's why  
25 I'm objecting to the avenue that Mr. Sassower is taking



1  
2 because it's not relevant to this charge which  
3 is all Mr. Postel testified about.

4 If Mr. Sassower was not disabled as a result  
5 of the various court orders, there's nothing that  
6 Mr. Postel has testified to that would change any  
7 of that.

8 THE REFEREE: Okay. Mr. Sassower has just  
9 handed me a copy of a Second Department, Appellate  
10 Division decision, M-O-U-S-T-A-K-A-S versus  
11 B-O-U-L-O-U-K-O-S at 112 Appellate Division, Second,  
12 981, 492 New York Supp. 2nd 793.

13 MR. SASSOWER: I'll give a copy to your  
14 Honor with a memorandum of law. This is decisive.

15 THE REFEREE: That's what you say.

16 MR. SASSOWER: Judge --

17 THE REFEREE: That's you talking, not me.

18 MR. SASSOWER: In prison, I had plenty of  
19 time --

20 Q In any event, Mr. Postel, and we're talking just  
21 about the Nassau County case, you have no stipulation of  
22 substitution.

23 A Correct.

24 Q And you don't have any order of the court.

25 A A cross-motion hasn't been granted.

1  
2 Q If there is a cross-motion.

3 A There is a cross-motion, there is a cross-motion,  
4 Mr. Sassower, it's not a question of, if there is. The  
5 mails may not have been delivered to you, but there is.

6 THE REFEREE: Has that been decided?

7 THE WITNESS: No.

8 Q In Supreme Court, Nassau County.

9 A Yes.

10 MR. STRAUS: That's the eighth time.

11 He said Supreme Court, Nassau County eight times.

12 THE REFEREE: He wants to be sure. Go ahead.

13 MR. SASSOWER: I think this was offered to  
14 be marked for identification.

15 This is another copy. I'm sorry.

16 Q There are motions which have been --

17 MR. SASSOWER: Withdrawn.

18 Q You testified last time, sir, that you made cross-  
19 motions or motions in other cases to be substituted, is that  
20 correct?

21 A Correct.

22 Q And, would you say those cross-motions were made  
23 starting in or about November, not before?

24 A I believe that's correct.

25 Q And would you say that you do not have in your

possession any order granting your cross-motion?

A I don't have granting it. I don't have an order denying it.

Q Let's take the second part first. I'll concede you have no motion granting it.

Now, was -- I asked you the question, sir, last week, whether you submitted such a cross-motion to Judge Lester Evans.

A I did.

Q You did.

A It has not been denied nor has it been granted.

Q Has an order been written --

A There's been no decision on it.

Q I'll show you there has been a decision.

A Not on the cross-motion, Mr. Sassower. We went through that last week.

Q Wait a second. Are you contending to this court, at this time, that there is presently a pending motion before Judge Lester Evans?

A I believe there is.

Q Which is sub judice?

A He hasn't granted or denied it. The last time I spoke to Judge Evans chambers they couldn't find the cross-motion. They were looking for it.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q I can tell you where it is.

MR. STRAUS: Objection. May we have questions and answers?

MR. SASSOWER: Sure.

Q Did you look in the County Clerk's file at Exhibit number -- no -- enumerated Paper Number 5, attached to a decided motion?

A No, I did not.

Q By the way, you would say, sir, would you not, that the motion pending in Supreme Court, Nassau County inures, benefits, if ultimately granted, Hyman Raffe.

A No, nothing can inure to Mr. Raffe's benefit if he doesn't want it done.

Q Excuse me. We're talking about --

MR. STRAUS: Objection. He's answered.  
Don't argue with the witness.

Q Did Mr. Raffe ever ask you whether any document he signs releases Eugene Dann or Robert Sorrentino?

MR. STRAUS: Objection.

THE REFEREE: Sustained.

MR. SASSOWER: Your Honor, there will be testimony by me on it.

THE REFEREE: All right.

MR. SASSOWER: I can't call him back at that

time, your Honor, that's what I'm saying.

I make a representation now to our Honor that I specifically spoke to Mr. Raffe and that question was, the comment was made to me by Mr. Raffe --

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

THE REFEREE: The witness said so. That's the end of it.

MR. SASSOWER: He made a comment. Let me ask the question, please, your Honor.

You can strike it afterward.

THE REFEREE: Go ahead, ask the question.

MR. SASSOWER: Thank you.

Q Did Mr. Raffe ever ask you on any document that he signed or after signing documents --

THE REFEREE: When?

Q -- at any time --

THE REFEREE: No.

Q -- prior to say, November 30, whether anything he is signing releases Eugene Dann or Robert Sorrentino?

MR. STRAUS: Objection.

THE REFEREE: Overruled.

A We discussed Dann and Sorrentino. We discussed everybody, all the aspects of the case. I don't remember



what was said about what at this point.

Q By Mr. Raffe.

A To my knowledge, we haven't released Mr. Sorrentino yet. We haven't settled any claims with Mr. Dann or Mr. Sorrentino.

Q If you haven't released Dann and Sorrentino and there is a judgment that was obtained against Dann and Sorrentino, doesn't a motion that seeks to satisfy that judgment go to the legitimate, pecuniary benefit of Mr. Raffe?

MR. STRAUS: Objection.

THE REFEREE: Sustained.

MR. SASSOWER: May I have that letter of January -- July 1st?

MR. STRAUS: Is that an exhibit?

MR. SASSOWER: yes, I think his Honor has a copy.

MR. STRAUS: It's 38, I think.

MR. SASSOWER: Thank you, your Honor.

THE REFEREE: Is that it?

MR. SASSOWER: Yes. By the way, may we have a statement by Mr. Straus as to who he received this letter from?

THE REFEREE: Pardon?

MR. SASSOWER: Who he received this letter from. It's stamped August 6.

MR. STRAUS: It's a document which has been received in evidence.

MR. SASSOWER: Okay.

Q You testified that you dictated it and it was signed by Hy Raffe.

MR. STRAUS: Objection. He testified to that at least four times in the last session.

MR. SASSOWER: All right, I'm drawing his attention to the event.

Q Did you dictate this on the phone or were you there in person?

A My best recollection is that it was over the telephone.

Q And prior to dictating this letter over the telephone, did you have a discussion with the Kreindler or Feltman firm with regard to this letter?

A I don't think I did.

Q Did you have a conversation with Judge Klein with respect to this letter?

A No.

Q Now, before you dictated this letter, did you have a conversation with Mr. Raffe as to the subject matter

1  
2 of this letter?

3 A Yes.

4 Q It starts off, "It has come to my attention that  
5 yet another lawsuit was filed by you in which I am named  
6 a plaintiff.

7 Now, when you dictated that --

8 MR. SASSOWER: Your Honor, may I sit down?  
9 I have a temperature and I tire.

10 THE REFEREE: We'll recess for lunch.  
11 It's five to one now. We'll give you an extra few  
12 minutes.

13 MR. SASSOWER: I'm going to take some  
14 medication during lunch time and if we can be  
15 excused a little earlier today, I would appreciate  
16 it, if we can.

17 MR. STRAUS: If your Honor pleases, I would  
18 not like to break early if we're not going to  
19 finish with Mr. Postel.

20 THE REFEREE: If he doesn't feel well --

21 MR. STRAUS: I understand that, but I do  
22 think that Mr. Postel is entitled to some consider-  
23 ation as well.

24 THE REFEREE: Yes, can you go on or not?

25 MR. SASSOWER: Judge, I have tried cases

with 105 temperature. I go on.

THE REFEREE: Are you willing to go on? All right.

We'll recess until 2:15.

MR. SASSOER: If it comes where we cannot --

THE REFEREE: All right.

(luncheon recess)

- - - - -

(Afternoon session)

MR. STRAUS: Your Honor --

THE REFEREE: Are you ready?

MR. SASSOWER: Did you find that letter, your Honor?

THE REFEREE: I don't have it. You have it among your papers. Continue.

Q With respect to the action in Nassau County, do you recall what office typed those papers, your office?

A My office.

Q And, would that be reflected on your time sheets or your billing sheets?

A That who typed it?

Q The time that you spent dictating the cross-motion.

A It may and it may not be. I don't know.

1  
2 Q Are you familiar with a proceeding in federal  
3 court wherein the firm of Kreindler and Relkin are attempt-  
4 ing to assess fees against Hyman Raffe?

5 A Is that the fee application pending before Judge  
6 Conner?

7 Q No, Judge Nickerson.

8 A I have some vague recollection of that.

9 Q There's an application for fees against Hyman  
10 Raffe. Did you have papers on that from Mr. Raffe?

11 THE REFEREE: Filed by whom?

12 MR. SASSOWER: Kreinder and Relkin.

13 A You'd have to show me the papers, Mr. Sassower.  
14 There's so many papers that comes in in my desk every day  
15 or every week from this case that I don't know which piece  
16 of paper that you're referring to.

17 You're going to have to show me, otherwise I  
18 can't answer your question.

19 Q Are you familiar -- are you familiar with such a  
20 proceeding, yes or no?

21 A I have a recollection that there is a proceeding  
22 before Judge Nickerson.

23 Q Okay. With respect to that fee application, have  
24 you opposed that in any way?

25 MR. STRAUS: Objection, your Honor.



What's the relevancy?

MR. SASSOWER: The relevance is that I am going to contend and show that I haven't been opposing it.

I haven't been submitting papers or sending copies to Hyman Raffe and nobody has said "no, don't oppose it."

MR. STRAUS: If your Honor pleases, that's the point. Mr. Postel is not in a position to give testimony one way or the other.

The testimony has to come from Mr. Raffe, obviously.

This is not probative of the issue as to whether or not Mr. Sassower is acting at Mr. Raffe's request or not.

THE REFEREE: Again, Charge 6 refers to an action taken by Mr. Raffe in which he told you, "cease and desist" and "I don't want you as my attorney."

MR. SASSOWER: Let's assume that to be true for a moment, okay. Let's assume that to be true.

If I, despite that, or under a misunderstanding or a misapprehension or whatever else you want to say, and as I say, it's a sheer fabricat-

1  
2 ion, and I'm showing it from a fabrication point,  
3 if Mr. Raffe said to me or Mr. Postel said to me,  
4 "cease, you are not my attorney anymore" and,  
5 assuming that obligates me to cease, that's assum-  
6 ing that, and I am not ceasing, but I'm sending  
7 in papers like every two weeks or every three  
8 weeks on the matter and they are receiving it  
9 and they say nothing, am I not to assume --

10 THE REFEREE: This argument -- how many  
11 times do they have to tell you "We don't want  
12 you as our attorney"?

13 MR. SASSOWER: Fine. I want to ask you  
14 something.

15 THE REFEREE: They have a right to rely  
16 on the one or two instances, et cetera, of which  
17 they allege they told you.

18 MR. SASSOWER: Once orally, okay.

19 THE REFEREE: Let's go.

20 MR. SASSOWER: Your Honor, let me --

21 THE REFEREE: Go ahead.

22 MR. SASSOWER: Let me put for the record --

23 THE REFEREE: I know, we know your position.  
24 Let's get this witness --

25 MR. SASSOWER: For the record --

1  
2 THE REFEREE: Will you continue your cross-  
3 examination?

4 MR. SASSOWER: One thing, I contend that  
5 this witness and Mr. Schneider is playing fast  
6 and loose with the court in coming here naked,  
7 deliberately without any papers.

8 MR. STRAUS: Objection. Do we have to hear  
9 this again? He keeps saying it. This is not making  
10 a record. This is making a spectacle.

11 THE REFEREE: Mr. Sassower, let's continue.

12 MR. SASSOWER: I'm entitled to the right of  
13 subpoena which is being denied to me.

14 THE REFEREE: Sir, nobody is -- nobody has  
15 denied you.

16 I told you to submit your subpoenas to me  
17 and if I think they meet with my approval, I'll  
18 sign them.

19 The information you seek, the records you  
20 seek, if they are germane and relevant to this  
21 proceeding --

22 MR. SASSOWER: I'll state --

23 THE REFEREE: Don't state anything. Let's  
24 proceed.

25 MR. SASSOWER: I don't know if I received an

answer to the last question.

Let me repeat it.

MR. STRAUS: There was an objection to the last question.

THE REFEREE: All right, objection overruled.

Q Did you ever answer those fee applications by Kreindler and Relkin, yes or no?

A What I have done there --

Q Answer yes or no.

A I'm trying to recollect, Mr. Sassower, please.

Q Okay.

A I know I have been in communication with Judge Conner's chambers and I believe also with Judge Nickerson's chambers, that I want time to put in papers.

Q The question is that this fee application has been pending for months. Wait a second.

THE REFEREE: What date, specifically?

MR. SASSOWER: That I could not give you at this time.

THE REFEREE: Pardon?

MR. SASSOWER: I couldn't give you the specific date.

THE REFEREE: You said for months.

MR. STRAUS: There's no testimony to that effect.

THE REFEREE: All right, go ahead.

MR.SASSOWER: I'll say since before October,  
since before the middle of October.

THE REFEREE: Of '85.

MR.SASSOWER: Of '85, your Honor.

THE REFEREE: Go ahead.

Q Is there any writings to Judge Conner --

THE REFEREE: I thought this was an appli-  
cation before Judge Nickerson.

MR. SASSOWER: Thank you, very much, you're  
right.

A Is there any writings to Judge Nickerson, which  
states that you are the attorney for Hyman Raffe in that  
proceeding?

MR. STRAUS: Objection.

Q Yes or no.

THE REFEREE: I'll overrule.

A I don't recall. There may be but I don't recall.

Q If there are, will you send copies of those  
expeditiously to Mr. Straus?

MR. STRAUS: Your Honor, there is no need  
for this, for this burdening of this witness.

First of all, if Mr. Sassower wants to make  
a point on cross-examination, which is relevant,



1  
2 I have no objection, but now he's using the  
3 witness for materials which he says don't exist  
4 and is asking him to produce them.

5 MR. SASSOWER: He says they do exist.

6 MR. STRAUS: Mr. Sassower has had five weeks  
7 to prepare for this witness' examination.

8 If there are any documents which he wanted  
9 he could have specified them in a subpoena, which  
10 he failed to do.

11 Now he's attempting to shift the burden to  
12 this witness who is already on his second day of  
13 testimony.

14 MR. SASSOWER: I represent to this Court  
15 that I never received any such communication  
16 from Mr. Postel, so there is no way that I could  
17 conceive that this witness would take the stand  
18 and say that there possibly may be --

19 THE REFEREE: The fact that you didn't  
20 receive it, doesn't mean that -- doesn't necessari-  
21 ly mean that he didn't communicate --

22 MR. SASSOWER: I can assume in view of  
23 the correspondence, my correspondence, that none  
24 was received.

25 THE REFEREE: In any event, Mr. Postel, do

1  
2 you recall intervening in this case before  
3 Judge Knickerson?

4 THE WITNESS: I recall making a phone call.  
5 I don't recall writing a letter.

6 THE REFEREE: A phone call.

7 Q Did you ever communicate with Kreindler and Rel-  
8 kin and advise them that you are representing Hyman Raffe  
9 in the federal proceedings, yes or not, before Judge Knick-  
10 erson?

11 A I didn't tell them specifically that I was re-  
12 presenting Mr. Raffe in any one matter.

13 I think Kreindler and Relkin look upon me now as  
14 Mr. Raffe's attorney in all these matters.

15 Q Fine.

16 THE REFEREE: Mr. Sassower, this was a new  
17 application filed sometime in October, '85.

18 MR. SASSOWER: That's the best of my recol-  
19 lection, as far as date was concerned.

20 THE REFEREE: It was a continuance of a  
21 matter that had been pending for a year or two.

22 MR. SASSOWER: No, no, it's a new matter.

23 Q Would you -- you say Kreindler and Relkin looked  
24 upon you as the attorney.

25 Did you receive any papers on this application

1  
2 from Kreindler and Relkin which they submitted to the court,  
3 yes or no?

4 A I think so but I don't know for sure because I  
5 don't have them in front of me.

6 Like I said, there are boxes and boxes of papers,  
7 Mr. Sassower.

8 I can't, in the abstract, tell you what's in them  
9 or what's not in them.

10 There are just reams and reams of paper.

11 Q Did you ever see in the last four or five months,  
12 since this proceeding is pending before Judge Knickerson,  
13 any letter to Judge Knickerson which has a CC to you in  
14 addition to me?

15 MR. STRAUS: Objection.

16 THE REFEREE: Sustained.

17 MR. SASSOWER: Your Honor, the point of  
18 this question is this man testified that Kreind-  
19 ler and Relkin recognizes him as the attorney  
20 and him saying, your Honor -- I'll submit proof  
21 that --

22 THE REFEREE: Sir, it's not a question of  
23 whether Kreindler and Relkin recognize you as  
24 the lawyer or not.

25 The question here is whether or not you de-

fied the oral and written order of your client,  
Mr. Raffe and continued --

MR. SASSOWER: May I see the exhibit for a  
moment?

THE REFEREE: What exhibit?

MR. SASSOWER: The written instructions  
dictated by Mr. Postel while I was in jail.

THE REFEREE: You said you didn't get it.

MR. SASSOWER: Right, but I want to ask some  
questions on it.

THE REFEREE: It's in evidence. It's Petitioner's 38 in evidence. Return it to me.

MR. SASSOWER: I'm sure, I'm sure your Honor  
made the statement with the correct implication.

I did get a copy of this many months later  
from Mr. Straus.

THE REFEREE: But at the time --

MR. SASSOWER: Right, so that --

THE REFEREE: The letter is dated July 31.  
At that time you didn't get it.

MR. SASSOWER: I was in jail.

THE REFEREE: You got it after the Committee  
notified you of problems, right?

MR. SASSOWER: Right.



1  
2 Q Now, you start this letter which you dictated,  
3 "It has come to my attention yet another lawsuit was filed  
4 by you in which I was named a plaintiff."

5 MR. STRAUS: "I am named"?

6 MR. SASSOWER: "I am named a plaintiff."

7 Q And, I ask you, sir, when you dictated that let-  
8 ter, did you have any document in your hand which specified  
9 or set forth which lawsuit that was?

10 THE REFEREE: It's dated July 31, but the  
11 application before Judge Nickerson --

12 MR. SASSOWER: We're off that. You're right.  
13 That's why I'm asking.

14 Q On July 31st, when you dictated this to Miss  
15 Taylor, it has come to my attention, and you said you dict-  
16 ated this by phone, did you have a particular document  
17 on a particular lawsuit?

18 A I don't know if it was Miss Taylor who I dictated  
19 it to or not.

20 Q It says "AT" so I assume --

21 A She may have typed it, but --

22 Q Who did you dictate it to?

23 A I don't remember. It could have been one or two  
24 or three people in the office.

25 Q Okay. So, I'm asking you now --



1  
2 A I don't remember who was on the other end of the  
3 phone.

4 Q You don't remember?

5 A No.

6 Q Would your records show it?

7 THE REFEREE: What's the difference who he  
8 dictated it to?

9 MR. SASSOWER: Judge, --

10 THE REFEREE: Mr. Sassower, it wouldn't make  
11 any difference.

12 Q Did you have a particular document at hand when you  
13 dictated this about a particular lawsuit filed by me?

14 A I don't recall. I don't remember what was in  
15 front of me when I was dictating it.

16 THE REFEREE: Were you aware of any actions  
17 taken by Mr. Sassower which you were alluding to,  
18 not specifically, but indirectly?

19 THE WITNESS: Yes. I --

20 Q What lawsuit are you alluding to?

21 MR. STRAUS: He's indicated that he couldn't  
22 recall.

23 A There were several proceedings that were started  
24 in that period of time.

25 Q May I have the names?

1  
2 A Off the top of my head, I sit here, some seven  
3 months later, I don't remember.

4 Q Did Mr. Raffe tell you the names of the cases  
5 that I started where he was the plaintiff and without his  
6 consent? Yes or no.

7 A I don't recall.

8 Q Do your notes state which cases I started without  
9 his consent?

10 A My notes porbably would not.

11 Q Okay. Now, let me ask you that --

12 A If there were any notes at all.

13 Q This is dated July 31st, and you speak here --

14 MR. STRAUS: Objection. He doesn't speak  
15 here at all.

16 It's a letter signed by Mr. Raffe.

17 MR. SASSOWER: But you dictated it.

18 MR. STRAUS: The letter speaks for itself.

19 MR. SASSOWER: The letter doesn't show  
20 that Mr. Postel dictated it.

21 THE REFEREE: It's in evidence.

22 MR. SASSOWER: But it doesn't speak for itself.

23 THE REFEREE: Every document that's in evi-  
24 dence speaks for itself. Some speak more than  
25 others.

1  
2 MR. SASSOWER: Some don't speak.

3 THE REFEREE: Some don't.

4 MR. SASSOWER: Some don't tell the whole  
5 truth. He dictated it.

6 THE REFEREE: All right.

7 Q Let me ask you something. It says, "George,  
8 more than six months ago I told you that you were not to  
9 commence any further litigation in my name for any purpose  
10 with reference to Puccini Clothes."

11 Do you want to refresh your recollection?

12 A It's beginning to come back to me.

13 At the time this letter was written, it was at  
14 the same time that I was preparing a motion to be made, an  
15 order to show cause before Judge Klein to reargue the  
16 contempt conviction.

17 Q Right.

18 MR. STRAUS: Excuse me, Mr. Sassower.

19 A And, for the first time then Mr. Raffé became  
20 aware of the fact that the lawsuits you started in April  
21 were -- you started -- withdraw that -- this was the  
22 first time Mr. Raffé became aware of the fact that in  
23 April you started two lawsuits which resulted, which were  
24 the direct result of the contempt conviction.

25 I think that is what it meant that it has come

1  
2 to my attention that another lawsuit was filed. I believe  
3 it was the first time Mr. Raffe became aware of the fact  
4 that the lawsuits served on Kreindler and Relkin, Feltman,  
5 Karesh firm, in April were made and that he was a plaintiff  
6 in such a lawsuit.

7 Q That was the first time.

8 A I believe that --

9 Q When he spoke to you in July or the week after  
10 July and when you had all the papers and he had all the  
11 papers --

12 MR. STRAUS: Objection, there is no testimony  
13 to that.

14 THE REFEREE: Sustained.

15 MR. SASSOWER: There was testimony.

16 THE REFEREE: He didn't say he had all the  
17 papers.

18 MR. SASSOWER: I'm sorry. I used the word  
19 "all."

20 Q You testified, sir -- let me start from the be-  
21 ginning. I think -- so, really --

22 MR. SASSOWER: May I use a shortcut?

23 THE REFEREE: Go ahead, sir.

24 Q Would you say, Mr. Postel, that this letter, and  
25 I'm not saying that there was anything wrong with what you



1  
2 did in this respect.

3 MR. STRAUS: Objection.

4 MR. SASSOWER: Okay.

5 MR. STRAUS: Can we have a question?

6 THE REFEREE: You keep editoriializing.

7 Just ask your question.

8 Q Mr. Postel, would you say that that letter --

9 THE REFEREE: July 31, 1985 letter signed  
10 by Mr. Raffe, Exhibit 38.

11 Q -- had as its purpose or one of its purposes to  
12 make an argument to Judge Klein that Mr. Raffe knew nothing  
13 about these lawsuits and, therefore --

14 MR. STRAUS: Objection.

15 THE REFEREE: Overruled.

16 A No, that wasn't the purpose of the letter.

17 Q I was in jail.

18 MR. STRAUS: Objection to Mr. --

19 Q What was the purpose?

20 A To tell you that Mr. Raffe no longer desired you  
21 to bring any proceedings or litigations or file any papers  
22 with respect to the Puccini litigation.

23 Maybe you believe it's inartfully drawn, but the  
24 purpose of the letter was to tell you to stop.

25 Q Fine. Well, sir, this letter is dated sixteen



1  
2 days after you said and testified I was discharged.

3 MR. STRAUS: Objection. Is this a question?

4 Q Is that true?

5 THE REFEREE: Do you understand it?

6 A It was dictated sixteen days after Mr. Raffé re-  
7 tained me.

8 Q You said --

9 THE REFEREE: He was retained July 15, he  
10 testified, this is sixteen days later, July 31.

11 Q So actually, if your testimony as heretofore  
12 given is correct, I was discharged -- I had no authority  
13 to do anything on behalf of Mr. Raffé.

14 A It was my understanding that that was done in  
15 January.

16 Q It was your understanding that what?

17 A That Mr. Raffé told you in January to stop bring-  
18 ing any more lawsuits and proceedings in Puccini. That's  
19 what he told me.

20 Q This is what you said in the letter. The  
21 question is, you say that I was discharged --

22 MR. STRAUS: No, objection. He hasn't --

23 THE REFEREE: The witness has already  
24 testified that on or about July 15, Mr. Raffé  
25 told him that he had actually discharged you

orally in January and then as a result of the new action before Judge -- that prompted you to send -- Mr. Raffe to send a letter of July 31.

Q Do you wish, sir, with respect to motions that were coming into me, which Mr. Raffe had copies of, did you respond to them?

MR. STRAUS: Objection, your Honor.

THE REFEREE: I think he already --

MR. STRAUS: He's answered it three times, at least.

THE REFEREE: You will answer it again, Mr. Postel, but that's the last time for that question. Can you respond to it?

THE WITNESS: What's the question?

Q With respect to --

(Question repeated)

MR. SASSOWER: I don't know if he didn't understand the question or didn't remember the question, so --

THE REFEREE: Do you want to withdraw it and ask another question?

MR. SASSOWER: Yes.

THE REFEREE: Question withdrawn. Ask another one.

1  
2 Q Did you receive from Mr. Raffe copies of motions  
3 and actions that were brought by adversaries after July 15?

4 MR. STRAUS: If your Honor pleases, the  
5 witness has answered this particular query at  
6 least a half dozen times.

7 He's said over and over to the best of his  
8 knowledge Mr. Raffe gave him everything he re-  
9 ceived.

10 I don't know the point of having him repeat  
11 it again.

12 That's what he testified to on all those  
13 prior occasions.

14 MR. SASSOWER: The testimony will be, your  
15 Honor --

16 THE REFEREE: You don't know that.

17 MR. SASSOWER: I want to answer the argument.

18 THE REFEREE: Don't tell me what the testi-  
19 mony will be.

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

21 THE REFEREE: Let's not repeat the same  
22 questions over and over.

23 MR. SASSOWER: No.

24 Q On every case --

25 THE REFEREE: Will you answer the question?

THE WITNESS: What's the question?

Q On motions that came in?

A When?

Q After July 15, 19 --

THE REFEREE: Did the motions come to your attention?

THE WITNESS: By whom?

Q By Kreindler, by Feltman, by Nachamie, by Abrams?

A To the best of my recollection.

Q Did you answer them?

A You asked the question, now, to the best of my recollection, there were no motions that I really remember in July or August.

The barrage of motions which this all emanates from started sometime in November and Mr. Raffie and the reciever entered into their agreement. I'm talking about the barrage of motions that Mr. Sassower has made.

Now, with respect --

Q Okay.

MR. STRAUS: Have you finished your answer?

A There may have been other motions that were made by the Kreindler and Relkin in between but to the best of my recollection, those motions may have been directed almost

1  
2 directly at Mr. Sassower and not really at Mr. Raffe. I  
3 maybe wrong but there were so many motions --

4 Q The ones that were directed towards Mr. Raffe --

5 THE REFEREE: Assuming that there were, do  
6 you recall having seen or been apprized of any  
7 actions involving Mr. Raffe by Mr. Sassower?

8 THE WITNESS: By the Kreindler and Relkin  
9 firm?

10 THE REFEREE: Yes.

11 THE WITNESS: I don't recall. You'd have to  
12 show me what you're talking about. There are so  
13 many papers in there, Mr. Sassower.

14 Q On the motions that were directed --

15 A You'll have to be specific and show me what you're  
16 talking about.

17 MR. STRAUS: There is no testimony to that.  
18 If you can show him, he'll answer.

19 MR. SASSOWER: Your Honor, I asked and if  
20 it's a matter of cabfare, I'll pay it.

21 THE REFEREE: Sir, you're alluding to  
22 documents. Ostensibly you must have those docu-  
23 ments, so pull them out and show them to the  
24 witness.

25 You don't have the documents?



1  
2 MR. SASSOWER: I don't have all of them  
3 for reasons that I will tell you later but I  
4 can't tell you now.

5 THE REFEREE: The witness says he doesn't  
6 have any, period.

7 He says they all started in November of '85.

8 MR. SASSOWER: That's not what he stated.  
9 He said the barrage started --

10 THE REFEREE: In July or August.

11 Q Are you telling the Court that you notified,  
12 shortly after July 15, 1985, that you were the attorney  
13 for Hyman Raffé --

14 A Notified whom?

15 Q The Feltman and the Kreindler firm.

16 A I spoke with Mr. Schneider and I spoke with Mr.  
17 Gerstein. I met with Mr. Schneider and I met with Mr.  
18 Gerstein and Mr. Relkin.

19 Q And, did they deal with you as the attorney?

20 MR. STRAUS: If your Honor pleases, I object.  
21 This is now rehashing all of the cross-examination  
22 of his last appearance.

23 MR. SASSOWER: If he wants to see it, fine.

24 MR. STRAUS: He testified to this previous-  
25 ly. We're going through it chronologically again.

1  
2 THE REFEREE: Charge 6 refers only to  
3 instructions allegedly given by Mr. Raffé to  
4 you and not by this witness.

5 MR. SASSOWER: And, I am saying, your Honor,  
6 as your Honor must perceive that this man is  
7 fabricating his testimony, that's all, all right,  
8 and I'm entitled to prove it.

9 MR. STRAUS: If your Honor pleases, you don't  
10 prove a fabrication by repeating the same question  
11 six times. That does not prove a fabrication.  
12 That only proves a redundancy not on the part of  
13 the witness.

14 THE REFEREE: Do you have anymore cross-  
15 examination of this witness?

16 MR. SASSOWER: Quite a bit.

17 THE REFEREE: Let's go. You said you wanted  
18 to get home early.

19 MR. SASSOWER: Judge, I just said I'm a  
20 soldier, your Honor, I'll go.

21 Would you mark this for identification?

22 THE REFEREE: That will be PP.

23 MR. SASSOWER: Before I have it marked.

24 Q Did you receive --

25 THE REFEREE: Wait, I'll have him mark it

it for identification.

MR. STRAUS: You have to leave it so that the Reporter can mark it.

MR. SASSOWER: I wanted to ask a prior question.

(Received and marked)

Q I show you page so and so --

THE REFEREE: Not page so and so.

THE WITNESS: Page 277.

THE REFEREE: Page 277. That's a record of appeal.

Q Which was served by the Feltman firm and I ask you were you served with one or two copies of it.

A Yes, I was.

MR. STRAUS: Mr. Sassower, is this a copy of what you have in the record on appeal?

MR. SASSOWER: Yes.

MR. STRAUS: Do you want to substitute this for that so we don't have the whole record on appeal?

MR. SASSOWER: There's a lot that I have so we might as well leave it. I don't care, whatever you want.

MR. STRAUS: If your Honor pleases, I have a

one page document which is a copy of the document.

THE REFEREE: Is that the one page that we're alluding to?

MR. SASSOWER: At this time, yes.

THE REFEREE: So we'll substitute the one page.

MR. STRAUS: Shall we have this marked for identification instead of that? That's a 400 page document that Mr. Postel is sitting with.

MR. SASSOWER: May I, Mr. Postel, your copy is the same.

THE WITNESS: I'm just looking at it Mr. Sassower.

(Single page marked Exhibit PP for identification)

THE REFEREE: Question.

Q Have you seen that document before?

A I have.

Q Where was that prepared?

A I believe it was prepared at Kreindler and Relkin. I'm not sure, but I believe so.

Q Does that look like Kreindler and Relkin typing?

MR. STRAUS: Objection. There's no indication that he can identify it.



1  
2 A I couldn't tell you what Kreindler and Relkin  
3 typewriter typing looks like.

4 MR. STRAUS: What's the relevance of this  
5 line of questioning?

6 MR. SASSOWER: Mr. Straus, will you please?

7 MR. STRAUS: I'm objecting to the entire  
8 line of questioning.

9 Q When, where and who was present at the time this  
10 was typed up?

11 MR. STRAUS: Objection. There is no document  
12 in evidence.

13 THE REFEREE: Sustained.

14 MR. SASSOWER: On what grounds, your Honor?

15 THE REFEREE: Do you have a specific date?  
16 You want to ask him about a meeting held on a  
17 specific date.

18 MR. SASSOWER: I want to ask him when that  
19 was signed and executed.

20 A It was signed -- it's dated October 2nd.

21 Q When was it signed?

22 A October 2nd.

23 Q And where was it signed?

24 A I believe in Referee Diamond's office.

25 Q And who was present?



1  
2 A I was. I believe Mr. Schneider was present. I  
3 believe Referee Diamond was present. I believe Mr. Gerstein  
4 was present.

5 Q And were stenographic minutes taken at the time?

6 MR. STRAUS: Objection. What is the relevance  
7 of this? The document is not in evidence.

8 He hasn't indicated where we're going on  
9 this line of questioning and he hasn't offered it  
10 in evidence.

11 THE REFEREE: What was the purpose of the  
12 meeting?

13 THE WITNESS: The purpose of the meeting,  
14 there was a hearing before Referee Diamond and --

15 THE REFEREE: On a matter involving whom?

16 THE WITNESS: A matter involving the Puccini  
17 litigation.

18 Q Let's go off for a moment because I want to give  
19 it a proper setting.

20 There are two famous Olivers. One is In Re  
21 Oliver by the United States Supreme Court signed by Judge  
22 Black and the other one is Oliver against Postel. The  
23 question is this --

24 MR. STRAUS: Objection.

25 Q -- the question is, where is Referee Diamond's

1  
2 courtroom?

3 MR. STRAUS: Objection.

4 THE REFEREE: What's the relevance of  
5 where it is?

6 The next thing you'll ask is did he pay rent  
7 for the month. What's the difference?

8 MR. SASSOWER: Judge, I'll show you that it  
9 has relevance, take my word for it.

10 MR. STRAUS: I object because I don't take  
11 Mr. Sassower's word that we're going any place  
12 relevant and I object. It has absolutely nothing  
13 to do with anything about where Mr. Diamond  
14 has his chambers.

15 What does that have to do with Charge 6?

16 THE REFEREE: Where was the meeting held?

17 THE WITNESS: In Referee Diamond's office.

18 THE REFEREE: Do you know where it is?

19 THE WITNESS: It's on the fifth floor at  
20 Citi-Centre Street.

21 THE REFEREE: Next question.

22 Q The question is, were stenographic minutes taken  
23 during the time that this document was executed?

24 MR. STRAUS: Objection.

25 THE REFEREE: Sustained.

1  
2 MR. SASSOWER: Subject to connection, your  
3 Honor.

4 THE REFEREE: Sustained.

5 Q Do you have a copy of the stenographic minutes  
6 of that?

7 MR. STRAUS: Objection.

8 THE REFEREE: Sustained.

9 MR. SASSOWER: Your Honor, it's relevant,  
10 please, your Honor, unless --

11 THE REFEREE: Relevant to what issue, sir?

12 MR. SASSOWER: It's not proper for me to  
13 speak to you ex-parte and I certainly will not  
14 reveal it.

15 THE REFEREE: All right. Any -- the objection  
16 is sustained.

17 MR. SASSOWER: In front of my adversary.

18 THE REFEREE: The objection is sustained. Go  
19 ahead.

20 Q Was any notice sent out that you were aware of  
21 any hearing or proceeding involving Puccini before Octob-  
22 er 2nd, 19 --

23 MR. STRAUS: Objection.

24 THE REFEREE: Again, what is the relevance  
25 of this?

1  
2 MR. STRAUS: Particularly, I'm objecting  
3 because Mr. Sassower seems to be reverting to the  
4 issue of whether there was a conspiracy on the  
5 part of other people and that's been ruled over  
6 and over again, and I think that's why he's not  
7 making an offer of proof because that would be  
8 his offer.

9 MR. SASSOWER: No, your Honor, no, your Hon-  
10 or, Mr. Straus knows everything.

11 All I'm saying is this, a lot depends upon  
12 your Honor's judgment in his report.

13 Now clearly, if I don't come through with  
14 proof thereafter that connects my questions with  
15 what I am going to introduce later on, it would  
16 reflect upon me, so, I think, your Honor, a  
17 little trust and a little leeway in an important  
18 proceeding is important.

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

21 MR. SASSOWER: Okay.

22 Q With respect to Respondent's Exhibit PP, did you  
23 ever send this document to me and, if so, when?

24 A I do not think that I, I don't believe I sent it  
25 to you.



1  
2 Q Did you ever notify me in any way of the existence  
3 of this document?

4 A No.

5 THE REFEREE: After the letter of July 31,  
6 Mr. Raffe is alleged to have sent to Mr. Sassower,  
7 did, at any time, did you communicate with Mr. Sas-  
8 sower either on the telephone or in writing and  
9 say, "Listen, we told you not to represent us any-  
10 more, how come you're still sending --" --

11 THE WITNESS: The only written communication  
12 would have been the cross-motions that were made.

13 MR. SASSOWER: Your Honor, I'm going still  
14 further.

15 I'm saying that in front of this man, in  
16 court, arguing on behalf of Mr. Raffe --

17 THE REFEREE: Sir, you are testifying  
18 and you're supposed to be cross-examining this  
19 witness.

20 MR. SASSOWER: It states here -- I offer  
21 this in evidence with the clear understanding  
22 that I did not ever see this and only inadvertent-  
23 ly until the latter part of --

24 MR. STRAUS: Objection. Is this an offer  
25 of evidence or a speech?



1 MR. SASSOWER: An offer of evidence.

2 THE REFEREE: You say you didn't receive  
3 it, so why are you offering it in evidence?  
4

5 MR. SASSOWER: Because I want to read from  
6 it.

7 If you allowed me to read from it without  
8 offering it in evidence --

9 THE REFEREE: Let me look at it.

10 MR. SASSOWER: Because it's all fabrication.  
11 I don't want to offer it for the truth thereof.

12 MR. STRAUS: If he's going to offer a docu-  
13 ment in evidence not for the truth --

14 THE REFEREE: You say you didn't get it,  
15 you didn't receive it and you are offering it  
16 in evidence but not for the truth.

17 What's it being offered for?

18 MR. STRAUS: More specifically, your Honor,  
19 what is it being offered for with respect to the  
20 direct testimony of this witness, the direct exami-  
21 nation?

22 MR. SASSOWER: It's cross-examination.

23 MR. STRAUS: That's right and cross-examinat-  
24 ion is usually in most cases limited to the  
25 product of the direct examination.

1  
2 MR. SASSOWER: I am saying, your Honor,  
3 this man is fabricating all this testimony here  
4 all right and I'll show that it's all fabricat-  
5 ion and I'm entitled to a certain amount of lee-  
6 way.

7 THE REFEREE: I'll make that determination.

8 MR. SASSOWER: Fine but, your Honor, has to  
9 give me leeway.

10 THE REFEREE: Within the boundary lines  
11 of --

12 MR. STRAUS: The planet Earth, maybe.

13 MR. SASSOWER: But your Honor doesn't know  
14 what's coming next.

15 THE REFEREE: I know.

16 MR. SASSOWER: You don't.

17 THE REFEREE: I know. You are going back to  
18 your original theme, everybody conspired.

19 MR. SASSOWER: Judge, did I ever say this?

20 THE REFEREE: Yes.

21 MR. SASSOWER: When did I say this?

22 THE REFEREE: You said they're all in  
23 collusion, they're all corrupt.

24 MR. SASSOWER: I, I mean, I don't use a  
25 generic term, your Honor.

If you are going to tell me about the Feltman firm and tell me about the Kreindler firm, they are criminals with law degrees, okay?

THE REFEREE: Okay.

MR. SASSOWER: And if you want proof, documented proof --

THE REFEREE: Objection sustained. Next question.

MR. SASSOWER: In fact, it's not even disputed anymore. I have so much evidence.

Let me read from the document.

MR. STRAUS: Objection to his reading from a document not in evidence.

THE REFEREE: What is it you want to ask this witness, sir? Let me ask --

MR. SASSOWER: Your Honor, I'm sure, your Honor can look at it.

THE REFEREE: I read it. What do you want me to ask?

MR. SASSOWER: Ask him the second paragraph, about all these things that have been going on. These are phony, contrived allegations.

Do you want me to ask him?

THE REFEREE: It refers to all Puccini



related cases.

MR. SASSOWER: No, no, let me ask the question.

MR. STRAUS: I'm objecting to this question.

THE REFEREE: Overruled.

MR. STRAUS: From a document not in evidence.

THE REFEREE: Overruled. You are limited only to a question now.

MR. SASSOWER: Only one question?

THE REFEREE: You said you wanted one question.

MR. SASSOWER: Immediately I thought your Honor would see it, but, all right.

Q It states on Exhibit, Exhibit PP, signed by you, that --

MR. STRAUS: Objection. Can he ask a question without the remarks and comments?

THE REFEREE: All right. Question. Go ahead.

Q "I further confirm to you that we have requested stipulations of substitution but have not been able to obtain same from Sassower and Polur."

THE REFEREE: Question.

A What's the question?

Q The question is, when, where, by who, means, did

1  
2 you request stipulations of substitution prior to Octob-  
3 er 2, 1985?

4 MR. STRAUS: Objection, your Honor.

5 THE REFEREE: Overruled.

6 MR. STRAUS: If your Honor pleases, this  
7 is highly collateral to any direct.

8 He can't go off anywhere he wants in order  
9 to prove whatever he wants to.

10 A I believe we went through this exact same question  
11 last Thursday Mr. Sassower when you read the exact same  
12 paragraph to me and I told you then and I'll tell it to you  
13 again now, it was -- in conversations with myself and Mr.  
14 Raffe, it was my recollection and you have to understand  
15 that somethings go on in this lawsuit every week, every  
16 day of the week.

17 Q No, no, no.

18 A I'm trying to answer your question that we asked  
19 you to substitute.

20 Q I'm asking you, give me specifically --

21 A I can't give you specifically.

22 MR. STRAUS: Objection, if your Honor pleases.  
23 You have a document which is not in evidence.  
24 He's asking him questions based upon a document  
25 which is not in evidence.



1  
2 THE REFEREE: No, forget the document now.  
3 When, if at all, did you tell Mr. Sassower you  
4 wanted a stipulation substituting?

5 THE WITNESS: I truly don't recall when it  
6 was done.

7 Q Well, you said --

8 THE REFEREE: Forget what he said. He said  
9 he doesn't recall.

10 Q Well, when you asked me, supposedly prior to  
11 October 2, 1985, for a stipulation, was that orally or in  
12 writing?

13 A It was orally. There has been no writing between  
14 you and me.

15 Q Pardon me?

16 A You know there's no writings between you and me.

17 Q But there's writings between me and Raffae, right,  
18 that you have copies of?

19 MR. STRAUS: Objection.

20 THE REFEREE: Sustained.

21 Q Tell me what I said prior to October 2nd, 1985  
22 when you requested a stipulation?

23 THE REFEREE: Mr. Sassower, again we're  
24 going off base here.

25 It refers only to instructions given you by

Mr. Raffe, Charge 6, not by Mr. Postel.

MR. SASSOWER: Your Honor, let's understand this.

THE REFEREE: You keep asking this witness what he did, what letters he wrote, what else he didn't write and that's not the issue under Charge 6.

MR. SASSOWER: Your Honor is partially correct.

THE REFEREE: I'm making some progress now, I'm partially correct.

MR. SASSOWER: If you decide in my favor you will be completely correct, but that's beside the point, your Honor, my assertion here is in this respect and to the extent reflects upon Mr. Straus, let it, that this Charge 6, and we're only talking about Charge 6 is one wholly contrived --

THE REFEREE: You said that.

MR. STRAUS: You have to prove it, Mr. Sassower.

MR. SASSOWER: You have to prove it, I don't have to.

MR. STRAUS: And if we don't, don't worry about it. If --

1  
2 MR. SASSOWER: I want to tell you something,  
3 with Referee Potoker, I'm worried and I mean it  
4 seriously, you don't mind my honesty --

5 THE REFEREE: Do you have any more cross-  
6 examination?

7 MR. SASSOWER: Sure.

8 THE REFEREE: Let's go.

9 Q By the way, did you ask for the stipulations  
10 of substitution from Mr. Polur also? You --

11 MR. STRAUS: Objection.

12 THE REFEREE: Yes or no.

13 A I don't recall. I think by that time Mr. Polur  
14 was suing me and I wasn't suing him.

15 THE REFEREE: Who is Mr. Polur?

16 MR. SASSOWER: We'll get to that.

17 THE REFEREE: No, no, tell me now.

18 MR. SASSOWER: I'm not hiding anything.

19 THE REFEREE: Tell me who Mr. Polur is.

20 Some new name has been injected in these proceed-  
21 ings and I want to know who.

22 MR. SASSOWER: When I get on the stand, I'll  
23 tell you.

24 THE REFEREE: You asked him about Mr. Polur.

25 MR. SASSOWER: He's under oath. He's a

He's a lawyer. Okay.

THE REFEREE: Next question, if you have any, proceed, if not, let's excuse the witness.

Q I show you from the record on appeal --

THE REFEREE: Whose record and what appeal?

MR. SASSOWER: When I refer to a record on appeal on all these questions now, I'm referring to a record on appeal --

THE REFEREE: Who appealed?

MR. SASSOWER: Feltman, Karesh and Major appealed from about three or four orders.

THE REFEREE: They were the attorneys for the receiver.

MR. SASSOWER: Right.

THE REFEREE: They appealed certain orders.

MR. SASSOWER: I was served last week or thereabouts and Mr. Postel testified that he got one or two copies of --

THE REFEREE: All right.

Q So, I'm referring to Page 273 and I ask you, did you receive that document shortly after the date?

A Receive what document?

Q A notice -- what's that, a discovery or --

A It's a notice of deposition.

Q A notice of examination before trial. Did you receive a copy --

THE REFEREE: Wait, he's looking at it.

A I don't know if I did or not.

Q And, turn to the next page. Did you -- when I say did you receive a copy, I mean from Mr. Raffe?

A I don't think so because I don't think Mr. Raffe received a copy.

Q No, you can't talk about Mr. Raffe, okay?

A I don't think so. This doesn't indicate Mr. Raffe received a copy.

Q I asked you, did you receive a copy.

THE REFEREE: He said no. Next question.

A I said I don't think so.

Q Well, you do know, sir, from examining the papers --

THE REFEREE: Which papers?

MR. SZSSOWER: The papers that Mr. Raffe gave you, that when I was at his premises I never indicated in his name that he got a copy but --

MR. STRAUS: Objection. Is this a question?

THE REFEREE: That's not a question.

MR. SASSOWER: Okay. All right.

Q Well, if you received a copy of these papers from



1  
2 Mr. --

3 MR. STRAUS: He testified that he didn't  
4 recall receiving it. I object to the question.

5 You're misstating his testimony.

6 Q But, will you look in your file and send Mr.  
7 Straus copies of those papers if you received them --

8 THE REFEREE: Let's assume he received them,  
9 what is the relevance?

10 You can't tell me now?

11 MR. SASSOWER: Yes, I can.

12 THE REFEREE: You can?

13 MR. SASSOWER: Sure.

14 THE REFEREE: Tell me.

15 MR. SASSOWER: Because I'm saying that we got  
16 a decision from Judge Conner.

17 THE REFEREE: In an action commenced when?

18 MR. SASSOWER: In '82.

19 THE REFEREE: By whom?

20 MR. SASSOWER: By me.

21 THE REFEREE: All right. Yes?

22 MR. SASSOWER: And, Judge Conner after argument,  
23 and I'm giving it to you in progression --

24 THE REFEREE: Yes.

25 MR. SASSOWER: -- although that action was

1  
2 part of the Gammernan order, did not feel bound  
3 by it under the circumstances and render a decis-  
4 ion and after he rendered a decision, I sent out  
5 a notice of deposition and written interrogator-  
6 ies and that was on September 19 and the test  
7 will be that Mr. Raffe knew about it. It was  
8 discussed with him.

9 MR. STRAUS: If your Honor pleases, I'm going  
10 to object because this obviously doesn't have any  
11 application to Mr. Postel.

12 When Mr. Raffe is here, he can do it through  
13 Mr. Raffe.

14 THE REFEREE: You're making allegations and  
15 at this juncture, we're here for you to continue  
16 cross-examination of this witness and no one else.

17 MR. SASSOWER: May I continue with this wit-  
18 ness?

19 Q I show you Pages 267 to 272 and ask you if you ever  
20 saw this before?

21 MR. STRAUS: Objection to this entire --  
22 what is the purpose of this with respect to  
23 Charge 6? That's all Mr. Postel testified about.

24 MR. SASSOWER: Must I write a telegram both  
25 to Mr. Straus and Mr. Postel as to what I am

I am trying to prove?

MR. STRAUS: You can attempt to show that it's relevant which you have failed to do miserably so far.

MR. SASSOWER: Oh, stop your comments.

MR. STRAUS: You asked for my comments.

MR. SASSOWER: You don't even know what's going on.

THE REFEREE: This witness is on the stand. He testified on direct-examination.

You're now on cross.

You have a right to cross-examine him with respect to relevant matters.

MR. SASSOWER: I am.

THE REFEREE: Not about things, everything under the sun.

MR. SASSOWER: I am.

THE REFEREE: No, you're going --

MR. SASSOWER: I am.

THE REFEREE: No, Charge 6 is what you should be --

MR. SASSOWER: Right.

THE REFEREE: Let's zoom in on that.

MR. SASSOWER: Right, because I'm going to

1  
2 to show through this witness --

3 THE REFEREE: What?

4 MR. SASSOWER: That they knew all along  
5 that I was acting as the attorney for Hyman Raffe.  
6 I was the attorney of record.

7 I was addressed by the adversary counsel  
8 as the attorney of record.

9 Mr. Postel was not in the picture.

10 THE REFEREE: The fact that you were address-  
11 ed --

12 MR. SASSOWER: And that the instructions  
13 never existed.

14 THE REFEREE: You made that point. You  
15 said, number one, Mr. Raffe never discharged you  
16 in January.

17 Number 2, you never received a copy of  
18 the July 31 letter. You made that clear. You  
19 said that.

20 MR. SASSOWER: They kept it secret from me.

21 THE REFEREE: The Grievance Committee is  
22 alleging you did receive a copy of it and you were  
23 apprized of the fact that you now longer represent-  
24 ed Mr. Raffe.

25 MR. SASSOWER: Excuse me, is that what you

are alleging?

MR. STRAUS: The charge speaks for itself. I assume by this point you have read it. You have had it for several months. That's what it's always said. That's what the letter of February the 28th reiterated.

MR. SASSOWER: I heard the man's testimony and as far as I am concerned, and from what I have been led to understand, this was a completely contrived charge by your office.

THE REFEREE: Sir --

MR. SASSOWER: I'm telling you and since it's his petition, I want to show that's contrived.

THE REFEREE: Sir, he has to prove it to my satisfaction by clear and convincing evidence.

If he can't do it, then Charge 6 will be dismissed.

MR. SASSOWER: Judge, for my peace of mind, I want to make absolutely certain that not only you but every judge of the Appellate Division and everybody else knows that this is a purely contrived charge.

I don't want it dismissed because they haven't shown it by clear and convincing proof.



I want it killed like every other charge.

THE REFEREE: Let's continue with cross-examination.

MR. STRAUS: If Your Honor please, I'm making an application at this time to end the cross-examination since Mr. Sassower is obviously not conducting one.

THE REFEREE: Go ahead, Mr. Sassower.

Q Did there come a time when motions were made to strike out the defendant's answer when you came into the picture in that case, yes or no.

A We made a motion and I appeared in court with an affidavit from Mr. Raffe.

Q Now you knew -- what was this action based upon?

A We went through this all last week, Mr. Sassower.

MR. STRAUS: It's the same question all over again. It's probably the third or fourth time and again, if Mr. Sassower has nothing new --

MR. SASSOWER: If he says we went through it again, I'll tell you what you said.

THE REFEREE: Don't tell him what he said.

A I answered the question and it's in the record.

Q Did you look at the case to find out what the case was all about?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A No.

Q Did you know what the case was when you injected yourself at the end of November, yes or no?

A I had some recollections of the case, yes.

Q Did you ever inquire of me what the case was all about?

A No.

Q Did you ever have a copy of pleadings in this case, yes or no?

THE REFEREE: Which case?

Q This 1982 case.

A I believe I saw a copy.

THE REFEREE: The witness testified as far as he knows this whole matter arose in November 8, 1985.

MR. SASSOWER: Let me put this -- and, excuse me because I'm not feeling too well, but I'm going to try to be nice, but be very articulately blind, the problem, your Honor, as I see it --

THE REFEREE: Sir --

MR. SASSOWER: -- is that your Honor has drawn a picture.

THE REFEREE: I have his answer to the questions that you posed.

MR. SASSOWER: But I know what's coming.

THE REFEREE: You keep asking the same question over and over and over again.

Q Did you read Judge Conner's decision on this case, yes or no, before the end --

MR. STRAUS: Objection.

THE REFEREE: The decision on what case, on what case?

MR. SASSOWER: On this case.

THE REFEREE: Which case?

MR. SASSOWER: The 1982 case.

THE REFEREE: We're not talking about 1982.

MR. SASSOWER: It's an index number of '82.

THE REFEREE: You weren't dismissed according to the Grievance Committee until January of '85.

MR. SASSOWER: This decision came down in July.

THE REFEREE: I know but there was a 1982 case.

MR. SASSOWER: This was the same case. It's an '82 index number.

THE REFEREE: You said it was an '82 case so it wasn't a new action that you commenced.



MR. SASSOWER: Right. We were making motions on it in '85.

Q Did you discuss this case with Mr. Raffe, yes or no?

A Which case, the Arutt-Nachamie case?

Q Yes.

A We discussed it.

Q You did? Did he tell you that recovery was almost certain in that case?

A No, he didn't tell me that recovery was almost certain.

Q What did he tell you about that case?

MR. STRAUS: Objection, your Honor.

THE REFEREE: Sustained.

MR. SASSOWER: My proof will be, your Honor, that here we have --

THE REFEREE: Wait --

MR. SASSOWER: You want my proof?

THE REFEREE: When you're ready to submit your proof you'll submit it. Continue with your cross-examination.

MR. SASSOWER: It's much better if the proof comes more better from the adversary than my mouth.

1  
2 THE REFEREE: Proof of what?

3 You're going beyond Charge 6 or are you trying  
4 to read into Charge 6 allegations that are not  
5 contained therein?

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

7 THE REFEREE: Sir, Charge 6 reads, Number 3,  
8 "Respondent deliberately and willfully disregard-  
9 ed and violated Raffe's instructions by substitut-  
10 ing, filing and submitting numerous actions,  
11 proceedings and appeals pertaining to Puccini  
12 on Raffe's behalf" and that was proposed by an  
13 allegation that on January '85, you were instruct-  
14 ed to commence no further litigation, no further  
15 litigation.

16 MR. SASSOWER: Okay. Wait a second. I'm sor-  
17 ry, your Honor. I have a file here that I thought  
18 I didn't have. I'm sorry. The illness --  
19 probably -- I have part of it. Anyway --

20 THE REFEREE: Now that you have the file, see  
21 if you can find the letter you took.

22 MR. SASSOWER: We didn't find that letter  
23 yet.

24 MR. SASSOWER: You didn't find it? It's your  
25 letter.



1  
2 THE REFEREE: You were the one who borrowed  
3 it.

4 MR. SASSOWER: I have another copy.

5 THE REFEREE: Now you borrowed it. You  
6 borrowed 38 in evidence.

7 MR. SASSOWER: What's 38? Judge, please,  
8 you can be my guardian on these things.

9 I don't feel insulted if I throw it on my  
10 desk and it's --I'm not doing it purposely. I'm  
11 just a very --

12 THE REFEREE: I know you are not but you  
13 have too many papers there.

14 You ought to put aside those you are not us-  
15 ing and just have the ones you intend to use in  
16 front of you.

17 Do you need some help? Mr. Straus' associate  
18 will help you.

19 MR. SASSOWER: I would appreciate -- you  
20 have another copy that we can substitute on that  
21 letter of February 28, in case I can't find it?

22 MR. STRAUS: We have another copy.

23 THE REFEREE: Only my copy was stolen. You'll  
24 find it. I'm sure you have it among your papers.

25 MR. SASSOWER: I'm almost sure of that.

1  
2 THE REFEREE: While you're looking, we'll  
3 take a two minute recess, please.

4 (Short recess)

5 MR. SASSOWER: Your Honor, so I don't make  
6 out a needless subpoena and it's not only the  
7 needless subpoena, but it's the reliance thereof,  
8 if I tender to the Court and I know I made this  
9 request before, for the production of, for the  
10 production of County Clerk's records and Appellate  
11 Division records, I don't have some of these re-  
12 cords --

13 THE REFEREE: What records do you want,  
14 what specific records do you want and for what  
15 purpose?

16 MR. SASSOWER: The purpose is --

17 THE REFEREE: What records do you want?

18 MR. SASSOWER: I want to show --

19 THE REFEREE: What records do you want  
20 first?

21 MR. SASSOWER: What records?

22 THE REFEREE: Yes.

23 MR. SASSOWER: Well, I want records that  
24 will tend to show, official records, one, that  
25 this gentleman was not even recognized as the

attorney --

THE REFEREE: What specific records do you want? A record has a name? A document has a name.

MR. SASSOWER: Right.

THE REFEREE: What?

MR. SASSOWER: I took from my word processor all the documents that came off that word processor since January 8, okay, so that I would know if the allegation there was true, how I violated it. Okay.

Now your Honor cannot read --

THE REFEREE: I know but it's up to the Grievance Committee to prove how you violated it.

MR. SASSOWER: They think they proved it by Mr. Postel.

THE REFEREE: That's up to me to decide.

MR. SASSOWER: But I don't want to take a chance your Honor. I have to kill the charge.

THE REFEREE: Mr. Postel already alluded to the fact that everything started, as far as he's concerned in November '85.

MR. SASSOWER: Let me explain something.

THE REFEREE: Is that correct, Mr. Postel?

THE WITNESS: Right.

1  
2 THE REFEREE: So anything preceding Novemb-  
3 er of '85, he's not the witness.

4 MR. SASSOWER: Could I have a specific --

5 THE REFEREE: Yes.

6 MR. SASSOWER: I have from my computer word  
7 processor, it took me a long time to run off, all  
8 the things that, as I read it, Hyman Raffie  
9 verified, signed, okay --

10 THE REFEREE: Before January, 1985.

11 MR. SASSOWER: After.

12 THE REFEREE: What do you have after January,  
13 1985 as far as -- go ahead.

14 MR. SASSOWER: Now, there is no way that I  
15 can bring my word processor in here and punch up  
16 and show it to you, the only way I can do it is  
17 to go to the County Clerk's office and get all  
18 the documents that he signed -- forget about  
19 what he was given copies of -- all copies that he  
20 signed after January of 1985.

21 THE REFEREE: Of new cases.

22 MR. SASSOWER: New cases.

23 THE REFEREE: New cases that you started or  
24 somebody else started?

25 MR. SASSOWER: I started. He signed them

1  
2 and he got copies of them.

3 MR. STRAUS: If Mr. Sassower started them  
4 that's one of the problems of this case.

5 He has the copies. I don't have the copies

6 MR. SASSOWER: I don't have the copies.

7 MR. STRAUS: Are you representing that you  
8 prepared documents for Mr. Raffe's signature and  
9 you don't have them?

10 MR. SASSOWER: I said now I don't have them.

11 MR. STRAUS: If your Honor please, this matt-  
12 er which was marked ready --

13 THE REFEREE: In any event --

14 MR. SASSOWER: All I want is a subpoena.

15 THE REFEREE: I know. I can't take all  
16 the documents that the County Clerk has. Specifi-  
17 cally what?

18 MR. SASSOWER: What I'd like to do, tell you  
19 what I'd like to do, I'd like to go to the County  
20 Clerk's office on a day off.

21 THE REFEREE: You look for it and come back  
22 here and give me the specific and I'll sign a  
23 subpoena, is that fair enough?

24 MR. SASSOWER: Fair enough.

25 MR. STRAUS: Can we finish with Mr. Postel, Mr.



Mr. Sassower?

MR. SASSOWER: I don't know if we can finish.

THE REFEREE: Mr. Postel has little to offer if what he says is true, that everything started after November of '85, so there's no sense in going back before then.

Q Did you get a copy of this motion returnable January 24, 1986, and, in fact I sent a copy to Mr. Hyman Raffe.

MR. STRAUS: Returnable November of, November of '86.

MR. SASSOWER: And I sent a copy to Mr. Straus.

THE REFEREE: That will be QQ for identification.

A I believe I did.

Q Is that the fee application that you knew that was pending?

A I believe it does.

(Received, marked)

Q I show you this affidavit dated -- verified November 20, 1985. Did you get a copy of this and not from me because you know we don't correspond?

THE REFEREE: That will be RR for identifi-

1  
2 cation.

3 A I think I did. I can't be one hundred percent  
4 sure.

5 Q I show you this affidavit --

6 THE REFEREE: Again, where are we going  
7 with showing him all these affidavits?

8 MR. SASSOWER: I'll prove, your Honor, or  
9 I'd like to prove that Mr. Raffe actually gave  
10 me, physically, certain documents to respond to.

11 MR. STRAUS: If your Honor pleases, then I  
12 would --

13 THE REFEREE: New cases?

14 MR. SASSOWER: No, this is '86.

15 THE REFEREE: All right.

16 MR. STRAUS: If your Honor pleases, then the  
17 appropriate way to do it would be through Mr.  
18 Raffe.

19 THE REFEREE: Ask him was he present when  
20 Mr. Raffe is alleged to have given you certain  
21 documents.

22 Q Did you ever receive a copy of that paper and --

23 THE REFEREE: Exhibit SS.

24 (Received, marked for identification)

25 A I can't be one hundred percent sure.

1  
2 MR. STRAUS: If your Honor pleases, may  
3 I? At this point, this line of questioning  
4 seems maybe appropriate if Mr. Raffe was on the  
5 witness stand and Mr. Sassower wanted to  
6 question him, but Mr. Postel didn't testify to  
7 any of this on direct nor did he testify as to  
8 what Mr. Raffe did with respect to documents  
9 that he allegedly signed for Mr. Sassower.

10 Mr. Raffe is the witness to ask.

11 MR. SASSOWER: Your Honor, I have another  
12 problem which you are not aware of, but Mr.  
13 Straus is aware of, although he may have forgot-  
14 ten it, it is my position that, at this time, from  
15 everything that I have heard and seen, Mr. Raffe  
16 has not waived the attorney-client privilege  
17 and --

18 THE REFEREE: We'll wait for that when he  
19 takes the stand.

20 MR. SASSOWER: To a certain extent, to  
21 say that I can prove certain things by Mr. Raffe,  
22 my inclination may not be to invoke a client --

23 THE REFEREE: But you have a third party  
24 here.

25 MR. STRAUS: First of all, if your Honor

1  
2           pleases, I've interviewed Mr. Raffe at length.  
3           He has no reservations whatsoever about testify-  
4           ing to any of his relationship with Mr. Sassower.

5           THE REFEREE:   Mr. Sassower.

6           MR. STRAUS:    He's a willing witness.

7           THE REFEREE:   Can we ascertain from this  
8           witness, give him all these documents, whether or  
9           not he's aware of the fact that you served them on  
10          Mr. Raffe, period?

11          Q     I show you -- I show you a document --

12          THE REFEREE:   Another one?

13          Q     -- sent out by Kreindler and Relkin verified  
14          the 13th day of December, 1985, and I ask you, sir, would  
15          you kindly check your file, and if you received -- you  
16          don't have to attach the exhibits --

17          THE REFEREE:   Received what?

18          Q     -- if you received a copy of that affidavit  
19          from Kreindler and Relkin, would you send it to Mr. Straus?

20          THE REFEREE:   What's the relevance of  
21          whether he received it?   Suppose he did receive  
22          it?   What's the difference whether he received  
23          it?

24          MR. SASSOWER:   Because the only one that  
25          was recognized as the attorney for Raffe --



1  
2 THE REFEREE: They recognized you as the  
3 attorney, except Mr. Raffe didn't recognize you  
4 as the attorney. He's the one who allegedly dis-  
5 charged you.

6 MR. SASSOWER: No, no, but you fail to under-  
7 stand one thing, two things. Give me a second.

8 You have to take two things together. Take  
9 two of them, then you argue.

10 One, they only recognized me in this litigat-  
11 ion.

12 Secondly, Mr. Raffe got copies of all my  
13 papers responding to them and never said no.

14 Now, let's forget about verbal conversat-  
15 ions.

16 MR. STRAUS: You can't prove that through  
17 Mr. Postel to start with, and secondly, we offer-  
18 ed correct evidence and testimony of Mr. Schneider.  
19 They brought four or five contempt proceedings  
20 against him for acting as an attorney after he was  
21 barred. Does that indicate that they accepted  
22 him as the attorney? This is absurd. The man  
23 was barred six years before this.

24 MR. SASSOWER: I was never barred.

25 MR. STRAUS: Well, we have documents in evi-



dence for that purpose.

MR. SASSOWER: You have a document that says that a letter was dictated by Hyman Raffe.

MR. STRAUS: Right, and there are findings of four criminal convictions that are in evidence, so what are you doing with Mr. Postel? He can't help you. You're belaboring him and keeping him here for that purpose.

THE REFEREE: Mr. Sassower, please, again, let's stay in the ballpark.

MR. SASSOWER: Fine. When he gives up.

MR. STRAUS: I'm not giving up.

THE REFEREE: Let's --

MR. STRAUS: I'm hoping to protect this witness from a totally useless and baseless cross-examination.

MR. SASSOWER: Do you have any evidence in your file of these allegations to Charge 6?

MR. STRAUS: If I don't put them in evidence, then they are not proved.

THE REFEREE: You said you were sick today so what are you yelling about?

MR. SASSOWER: On the record --

THE REFEREE: Everything is on the record

Short circuit this cross-examination, because --

MR. SASSOWER: He made up this story, are you kidding me?

THE REFEREE: Anything else of this witness?

MR. SASSOWER: Yes.

Q Do you want to identify what this document is, Mr. Postel? It took me a couple of hours but I got it.

THE REFEREE: What's that? Is that missing?

MR. SASSOWER: No.

THE REFEREE: We're still missing JJ.

MR. STRAUS: Do you want the witness to look at it?

MR. SASSOWER: He knows what it is.

A I don't know what it is.

MR. STRAUS: Could we act within the rules of evidence, Mr. Sassower?

THE REFEREE: That will be TT.

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

(Received, so marked)

(Off record discussion)

MR. SASSOWER: I have another copy of that case. I was going to give it to you.

THE REFEREE: All right. Question with respect

to TT for identification.

Q Just tell us what it is.

THE REFEREE: No, no. You ask the question.

MR. SASSOWER: I asked.

Q Tell us what it is, where was it executed.

A It's an agreement signed between Mr. Raffie and the Feltman, Karesh and Major firm.

Q And were you present?

A I also signed it.

THE REFEREE: Dated when?

THE WITNESS: November 4, 1985.

Q Were you present when everybody signed it?

A Yes.

Q By the way, let me make one statement and the proof will come later on, on a subpoena question.

MR. STRAUS: I would object to any statements.

Can we finish with Mr. Postel?

THE REFEREE: Why do we have Mr. Postel sit here while you and I talk about subpoenas?

Let's get through with him.

MR. SASSOWER: We can't get through with him. He didn't bring documents. I'm going to get documents from the County Clerk's office and

1  
2 have to show him again because he didn't bring  
3 them. Okay.

4 THE REFEREE: He's not obliged to bring any  
5 documents.

6 MR. SASSOWER: Your Honor asked him to bring  
7 what's relevant.

8 THE REFEREE: All right. He said he went  
9 through his office --

10 MR. STRAUS: And he said that you had every  
11 document.

12 MR. SASSOWER: How does he know what I have?  
13 This is the problem. The Judge knows what the  
14 case is about. He knows what documents I got.

15 MR. STRAUS: For example, the document he's  
16 looking at now is one that you represented that  
17 you didn't have. It's an agreement which you de-  
18 manded that everyone produce but it turns out  
19 that you had it.

20 MR. SASSOWER: It took me three hours to get  
21 it.

22 THE REFEREE: But you had it.

23 MR. SASSOWER: Don't say I had it, your Honor.

24 MR. STRAUS: Is there a question pertaining  
25 to this document?



1 THE REFEREE: I don't hear it.

2 THE WITNESS: I identified the document.

3 Q Okay. Now, what date was that document?

4 A November 4.

5 Q Where was it drawn up?

6 A Where?

7 Q Yes.

8 A I think it was drawn up at Feltman, Karesh  
9 and Major.

10 Q In their office.

11 THE REFEREE: They were the attorneys for  
12 whom?

13 THE WITNESS: They were the attorneys for the  
14 receiver.

15 THE REFEREE: That's the Feltman firm, right?

16 THE WITNESS: Right.

17 Q October what date?

18 A November 4.

19 Q Mr. Postel, I show you Page 391, Page 391 and  
20 392.

21 MR. STRAUS: Before we go on --

22 THE REFEREE: Same exhibit. Is this the same  
23 TT marked for identification?

24 MR. STRAUS: Your Honor, what is the point  
25



1  
2 of showing the witness countless numbers of  
3 exhibits, having them marked for identification,  
4 then not asking him anything about it? He  
5 doesn't offer it in evidence. He has them marked  
6 for identification, then leaves them. We've  
7 had about eight or ten in the last hour for no  
8 purpose apparently.

9 THE REFEREE: Proceed, Mr. Sassower.

10 MR. SASSOWER: At the appropriate time --

11 THE REFEREE: Mr. Sassower, go ahead.

12 MR. SASSOWER: I have to verify the signa-  
13 tures before I can offer them in evidence. I  
14 wasn't there.

15 Q I show you 391 and 392.

16 A Yes.

17 Q First of all, were you present when those si-  
18 natures were annexed?

19 A When -- I probably was present when Mr. Raffe  
20 signed it. I was not present, when Mr. Cook signed it.  
21 I don't know if I was present when Feltman, Karesh and  
22 Major signed it.

23 Q Who drew that up?

24 A Probably Feltman, Karesh and Major.

25 Q And where did Mr. Raffe sign it?

1  
2 MR. STRAUS: Objection, your Honor. What  
3 is the relevance of an agreement to this charge?

4 MR. SASSOWER: Who says it's an agreement?

5 MR. STRAUS: I don't know what it is.

6 A It's a stipulation discontinuing an appeal.

7 THE REFEREE: Mr. Sassower, that's what  
8 you said when you handed him a document. You  
9 said, "I show you an agreement."

10 MR. STRAUS: This appears to be a stipulat-  
11 ion of discontinuance.

12 What does that have to do with Charge 6  
13 that Mr. Raffé entered into an agreement and that  
14 a stipulation of discontinuance was signed?

15 MR. SASSOWER: Sir, all I want is to identify  
16 signatures and where it was signed.

17 MR. STRAUS: If your Honor pleases, that's  
18 not the purpose of cross-examination.

19 THE REFEREE: For what purpose?

20 MR. SASSOWER: Because it has to do with this  
21 charge and other charges but before, since I  
22 wasn't present at the time and he can verify the  
23 signatures of the parties and the circumstances  
24 under which they were signed, that before I can  
25 introduce them in evidence at a later stage, I

1  
2 I have to identify signatures.

3 MR. STRAUS: If your Honor pleases, what is  
4 the relevance of the circumstances under which  
5 these agreements were signed? That's the point.

6 Mr. Sassower has something in his mind which  
7 he's not shared with anybody.

8 It has nothing to do with Mr. Postel's direct  
9 testimony.

10 MR. SASSOWER: The papers in the Appellate  
11 Division clearly show that I was willing to sit  
12 down even before the judge was appointed and  
13 exchange information. You refused.

14 MR. STRAUS: Absolute misstatement of fact.  
15 What you wanted was every document in every file  
16 and I told you you could not have them, particu-  
17 larly since you had all of them.

18 MR. SASSOWER: I did not say that.

19 THE REFEREE: Mr. Sassower, will you please,  
20 let's stay within the ballpark. Complete your  
21 cross-examination of this witness once and for  
22 all, because nothing has happened in the last  
23 hour and a half other than just offering docu-  
24 ments for identification.

25 MR. SASSOWER: Judge, you used to watch

Perry Mason and you watch forty-five minutes for the clues, then the --

THE REFEREE: I don't watch any of those shows.

Q Did you file this document in the Appellate Division, yes or no?

A Did I personally file it?

Q Yes.

A I don't believe so.

Q You're sure?

A I don't believe so.

MR. SASSOWER: Would you mark this, please?

THE REFEREE: It's already marked TT.

MR. STRAUS: Is this another document?

MR. SASSOWER: It's not been marked here, your Honor. Let me look on the other side.

THE REFEREE: It's TT. That's the stipulation of discontinuance, is that it, signed by the attorneys?

MR. STRAUS: I don't know what this is.

THE REFEREE: It's signed by the attorneys for the receiver, Mr. Raffé and Mr. Postel.

MR. SASSOWER: No.

THE REFEREE: This is UU, all right.



1  
2 MR. STRAUS: This is a stipulation of dis-  
3 continuance.

4 THE REFEREE: The other one was an agreement  
5 signed by Mr. Raffe, the attorneys and Mr. Postel  
6 dated November 4, 1985.

7 Now you have a new exhibit.

8 MR. SASSOWER: Right.

9 THE REFEREE: You don't say so. I asked if  
10 it was the same and you said yes, Exhibit "W"  
11 for identification, is that the stipulation of  
12 discontinuance?

13 MR. SASSOWER: That's what it's entitled.

14 (Received, marked UU for identification)

15 Q And, UU for identification, that was signed by  
16 Mr. Raffe under your supervision.

17 A I don't know what you mean by under my supervis-  
18 ion.

19 Q Were you acting as his attorney when you signed  
20 UU?

21 A I didn't sign UU.

22 Q I know you didn't sign it but did you advise him  
23 to sign it?

24 A Yes.

25 Q Now, this proceeding, number one, who was the



1  
2 the attorney of record?

3 A I don't think -- I don't think you were the  
4 attorney of record anymore. You were barred.

5 Q Did you have any document in your possession  
6 on October 2, 1985, that said I was barred, yes or no?

7 A I was relying on the order of Judge Sinclair.

8 Q Sir, are you aware that nowhere in this proceed-  
9 ing at any time did anyone contend --

10 MR. STRAUS: Objection, objection.

11 Q -- that I could not be the attorney in proceeding  
12 number 1?

13 MR. STRAUS: There is no testimony to that ef-  
14 fect?

15 THE REFEREE: Yes or no, are you aware of  
16 that statement?

17 THE WITNESS: Could you repeat the question?  
18 I don't recall.

19 Q Did you inquire of the Feltman firm?

20 A No.

21 Q There was an action, an appeal, Barr against  
22 Raffae, Dann, Sorrentino and Puccini under index number  
23 21208 of 1979 which is sometimes referred to as Barr 1.

24 MR. STRAUS: Is that a question?

25 MR. SASSOWER: Wait a second.

1  
2 Q Are you familiar with -- who was the attorney  
3 for Hyman Raffé in that case?

4 A I don't know if it was you or Mr. Polur.

5 Q Are you aware that throughout that proceeding  
6 I was the attorney for Mr. Raffé, never disqualified, it  
7 was never even contended --

8 MR. STRAUS: Objection. Is this a question?

9 Q Are you familiar with that fact?

10 MR. STRAUS: It's argumentative.

11 Q Are you familiar --

12 A No, I'm not.

13 Q Did you, sir, go to the Appellate Division on  
14 index number 21208 of '79, which is Barr 1  
15 and file a stipulation discontinuing an appeal in the  
16 Appellate Division?

17 A Did I personally do that? No.

18 Q Did you advise Mr. Raffé to affix his signature  
19 to such a stipulation?

20 A Yes.

21 Q Yes.

22 A Yes.

23 Q Did you ever advise Mr. Sassower on a record that  
24 he filed where he was the attorney for Mr. Raffé --

25 MR. STRAUS: Objection.

MR. SASSOWER: Wait a second.

MR. STRAUS: This is argumentative.

MR. SASSOWER: This is factual.

MR. STRAUS: I object to the form of the question.

Q Did you ever state in the papers to the Appellate Division this stipulation is being filed although Mr. Sassower did not sign it?

A No.

Q Well, UU, when you filed that stipulation in the Appellate Division, did you bring or whoever filed it, is there anything in the document which brought the attention of the Clerk or the Court and the Appellate Division that I was the attorney there?

A I have no idea.

Q What consideration, if any, did Mr. Raffé get for executing Resondent's UU?

MR. STRAUS: Objection, your Honor.

THE REFEREE: Sustained.

MR. SASSOWER: It's very important, your Honor.

THE REFEREE: Sustained. Next question.

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

THE REFEREE: A new one?

MR. SASSOWER: Yes.

THE REFEREE: That will be VV for identification.

(Received, so marked)

Q Are you familiar with that document?

A Yes.

Q Was it done by you, your office?

A Yes.

Q Did you read it before you sent it out?

A Yes.

Q Do you remember the date that you sent it out?

A Not as I sit here right now, no.

THE REFEREE: Pardon?

THE WITNESS: Not as I sit here right now.

THE REFEREE: What's the date?

MR. SASSOWER: It's not dated, undated.

Q Would you say that your reply of February 1986 would be a good date?

A It could have been the end of January.

Q End of January, beginning of February. All right.

Now, in the complaint which is recent, you state on or about July 15 --

MR. STRAUS: If your Honor please, at this point, it's not in evidence and he's reading from



1  
2 it and we have no opportunity to discuss its  
3 possible relevance. This is the twelfth or  
4 thirteenth document offered for identification,  
5 not offered in evidence, and pertaining to no  
6 real cross-examination of this witness. This  
7 has been going on all day.

8 Let me make that for the record.

9 THE REFEREE: Mr. Sassower.

10 MR. SASSOWER: May I show this to your  
11 Honor?

12 THE REFEREE: It's not evidence.

13 MR. SASSOWER: Okay.

14 Q Did you write to me -- dit the plaintiff write  
15 to me on or about July 15?

16 THE REFEREE: Which plaintiff, the Grievance  
17 Committee?

18 MR. SASSOWER: I'm sorry, you're right.

19 Q Did Hyman Raffé write to me --

20 MR. SASSOWER: Withdrawn.

21 THE REFEREE: Were you aware of any letter  
22 that Mr. Raffé wrote to Mr. Sassower dated when?

23 MR. SASSOWER: On or about July 15.

24 THE REFEREE: July 15, 1985 with respect to  
25 what?



1  
2 MR. SASSOWER: That I was no longer to re-  
3 present him and take no further action on his be-  
4 half.

5 THE REFEREE: That's 38 in evidence.

6 MR. STRAUS: He's testified to that at least  
7 six or seven times.

8 THE REFEREE: That's 38 in evidence.

9 MR. SASSOWER: First of all, 38 in evidence  
10 does not say that; and, secondly, --

11 MR. STRAUS: It doesn't say that?

12 THE REFEREE: It says "George, more than six  
13 months ago, I told you that you were not to com-  
14 mence any further litigations in my name for any  
15 purpose with respect to Puccini Clothes."

16 MR. SASSOWER: Does it say I'm discharged?  
17 This, he says, "I told you six months ago."  
18 Let's assume --

19 THE REFEREE: "I'm again instructing you  
20 that you are no longer to bring any litigations  
21 with respect to the Puccinimatter or anyone  
22 connected with the Puccini matter including the  
23 members of the New York State Judiciary."

24 MR. STRAUS: We have made the representat-  
25 ion, we've discussed it with Mr. Sassower, we've

pointed out to him --

THE REFEREE: You say that you never received a copy of this letter?

Where did you get the copy? Are you reading from the letter?

MR. SASSOWER: I'm reading from his complaint.

THE REFEREE: What's that?

MR. SASSOWER: That on July 15 he wrote to me that I was no longer to represent him.

Q Did you have such a letter?

A I may have confused the July 15 date with the July 31st date.

The only letter that I know that Mr. Raffe wrote to you was July 31st.

Q You mean that you wrote me?

A I didn't write to you.

MR. STRAUS: Objection.

THE REFEREE: Once Mr. Raffe put his signature on, it becomes his document, even though somebody else may have dictated it. You know that as a lawyer.

MR. SASSOWER: I really don't know that as a lawyer.

1  
2 THE REFEREE: I'm sure that you have argued  
3 that position many times.

4 MR. SASSOWER: No, I didn't, your HOnor.  
5 Generally clients come in, they trust their  
6 lawyer and they sign it.

7 THE REFEREE: Please. Any more cross-exami-  
8 nation?

9 MR. SASSOWER: Yes, I have plenty.

10 THE REFEREE: We haven't had any meaningful  
11 cross-examination.

12 MR. SASSOWER: Judge, I'll try to say it --

13 THE REFEREE: You want to do things your way,  
14 but you can't do it your way.

15 MR. SASSOWER: I want to show that from all  
16 these documents, many of them I don't have here,  
17 that this entire assertion, these entire secret  
18 meetings that I know nothing about until months  
19 later are fabrications.

20 THE REFEREE: Sir, it doesn't make any diff-  
21 erence. There is a charge, Charge 6, which  
22 talks only about matters vis-a-vis you and Mr.  
23 Raffe, Mr. Raffe's oral instructions of January,  
24 his written instructions of July.  
25



1  
2 MR. SASSOWER: Let me make it more specific,  
3 okay. I say that the Grievance Committee con-  
4 trived a lot of these charges taken from another  
5 guy, did no independent investigation and I want  
6 to destroy --

7 THE REFEREE: Mr. Sassower, assuming they  
8 did, their job and function at this hearing is  
9 to prove the charges set forth against you.

10 If they can't, they go out the window.

11 MR. STRAUS: If your Honor pleases, he's  
12 abusing and misusing this witness for no purpose,  
13 legitimate or otherwise on cross-examination  
14 which is all Mr. Postel is here for, which is  
15 cross-examination, not for Mr. Sassower's  
16 grandiose schemes of what he wants to prove and  
17 show the world.

18 It's supposed to be cross-examination.  
19 There hasn't been any cross-examination.

20 His apparent purpose is to just beat the  
21 witness down.

22 MR. SASSOWER: You should take your witness  
23 and tell him to bring some papers here and not  
24 hide them.

25 THE REFEREE: We have already gone through

1  
2 that.

3 MR. SASSOWER: I know we've gone through  
4 that, your Honor, and I know what Mr. Straus has  
5 been instructing these guys.

6 MR. STRAUS: You're making a false mis-  
7 representation which you have done time and time  
8 again.

9 You have no regard for the truth.

10 MR. SASSOWER: I don't?

11 MR. STRAUS: You say whatever you feel like  
12 saying, nor do you have any regard for the law  
13 or rules or the orders of courts.

14 MR. SASSOWER: Your Honor, I move for a mis-  
15 trial. This man is absolutely irresponsible.

16 THE REFEREE: Motion denied.

17 MR. SASSOWER: I strenuously move. This  
18 man is reckless, irresponsible and I want to  
19 tell you one thing more, if you would call up  
20 Westchester, they'll tell you my papers are letter  
21 perfect as far as truth is concerned.

22 THE REFEREE: If there is no further cross-  
23 examination, the Court will dismiss, will excuse  
24 the witness.

25 MR. SASSOWER: No, there is not.



1  
2 THE REFEREE: As I did last week with another  
3 witness.

4 MR. SASSOWER: I'd like to continue with this  
5 witness.

6 Q By the way, on VV for identification --

7 MR. STRAUS: What VV?

8 THE REFEREE: That's the complaint. What  
9 about it?

10 Q -- did you ever send Mr. Raffe a copy, yes or no?

11 MR. STRAUS: First of all, if your Honor  
12 pleases, there is no testimony from the witness  
13 as to his receiving it, I don't believe.

14 MR. SASSOWER: That's his complaint.

15 MR. STRAUS: I don't think that there's been  
16 any requirement that he send it to Mr. Raffe.  
17 What would it matter?

18 THE REFEREE: When Mr. Raffe takes the  
19 witness stand, you'll --

20 A I believe Mr. Raffe has seen this.

21 Q Did you send him a copy?

22 A I think I gave him, I gave him a copy.

23 Q All right, you gave him a copy.

24 Did he, did he see a copy or did you give him  
25 a copy before you sent it out?

1  
2 A Yes, I went over it with him before it went  
3 out.

4 Q And you went over it with him before it went  
5 out?

6 A Yes.

7 MR. SASSOWER: That's the point I wanted to  
8 make.

9 THE REFEREE: So he went over it, so what?

10 MR. SASSOWER: It's obvious. So now I can  
11 ask Mr. Raffe about some of these  
12 allegations.

13 THE REFEREE: You would have asked Mr. Raffe  
14 anyway.

15 MR. SASSOWER: But what happens if Mr. Raffe  
16 would have said "I never received this copy."?

17 Now I have the evidence that he received it.

18 THE REFEREE: He has the, he has a right to  
19 say he didn't receive it. You don't want him to  
20 lie.

21 MR. SASSOWER: Then one of them wouldn't be  
22 telling the truth.

23 MR. STRAUS: According to Mr. Sassower,  
24 he's not cross-examining Mr. Postel. He's using  
25 Mr. Postel as a foundation for his examination of

1  
2 Mr. Raffe, as he said on the record, and that's  
3 not proper to do with this witness.

4 MR. SASSOWER: Raffe will testify as to  
5 Charge 6.

6 THE REFEREE: Mr. Sassower, any more pertinent  
7 relevant questions?

8 MR. SASSOWER: Yes.

9 THE REFEREE: You can't say yes, but you  
10 don't ask them.

11 Q Mr. Postel, there was a motion made before Judge  
12 Lowe to vacate the convictions against myself and Mr.  
13 Raffe on the grounds that those convictions --

14 MR. SASSOWER: Objection, objection. It's  
15 not in the form of a question.

16 He answered it three times the last time  
17 he was here.

18 THE REFEREE: When, sir?

19 MR. SASSOWER: When the motion was made.

20 MR. STRAUS: He testified to it.

21 MR. SASSOWER: I would say about two months.  
22 It's still pending. There are still papers on it.

23 THE REFEREE: What's the relevance?

24 MR. SASSOWER: The point is --

25 THE REFEREE: What's the relevance?



MR. SASSOWER: -- and I stated that the convictions against Mr. Raffe should be vacated on constitutional grounds.

Q Did you receive a copy of those papers?

A I may have. I don't have a direct independent recollection of it.

Q Did you receive -- did you read --

MR. STRAUS: If he doesn't recall whether he received it, how can he testify as to whether he read it.

Object to the question.

THE REFEREE: Overruled.

A I don't recall.

Q Did you receive any opposing papers from Kreindler and Feltman?

A I may have.

Q Did you interpose any papers?

A No, I did not. I don't recall.

Q You don't recall.

A I don't recall doing that.

Q May I refresh your recollection with another document that I just unfortunately don't have?

Do you recall opposing my motion to vacate?

A Is this the very recent motion?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Q It's been running for the last couple of months.

A I remember. I have a recollection of putting in papers in a federal court proceeding. Maybe that's it. You have to show me the papers, Mr. Sassower. You can't ask me in the abstract.

Q Well, do you remember what --

Let me give it generally. Do you remember that my papers in sum and substance, alleged that in many ways this conviction against Mr. Raffe as well as myself, did not comply with the constitution of the United States?

A Were these papers submitted sometime in December or early January?

Q Something like that.

A I believe Mr. -- I believe it may have been an affidavit prepared by Howard Bergson.

Q Under your name.

A It could have been on my back because I was on vacation and Mr. Bergson, who is an attorney who also represents Mr. Raffe and has worked with me on this matter on occasion, may have taken care of that matter because it may have come in when I was away in Florida.

Q That was the affidavit that was typed by Feltman and sent out by him?

MR. STRAUS: Objection.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A I don't believe so.

MR. STRAUS: Your Honor --

THE REFEREE: Let's go.

Q Was there -- shortly after I received the letter of July 31st from Mr. Straus, I made a motion to vacate.

THE REFEREE: Please.

MR. SASSOWER: Please, your Honor --

THE REFEREE: No, I can't.

MR. SASSOWER: -- this question I must get in and I'll connect it later on.

MR. STRAUS: I'll object because there is no testimony to that.

THE REFEREE: You want to get your testimony on the record without being sworn as a witness.

MR. SASSOWER: No. It's his testimony.

MR. STRAUS: He can't testify to anything that I provided you, as you're testifying to.

MR. SASSOWER: What is the number of that? What is the number of that exhibit?

MR. STRAUS: It's 38, still number 38.

Q With respect to Exhibit 38 --

THE REFEREE: Here's a copy of it.

THE WITNESS: I think I must know it by heart by now.

1  
2 Q Did you ever receive from anybody my motion  
3 that I made to vacate the conviction of Hyman Raffé based  
4 upon Brady against Maryland, and I stated in the papers  
5 that I had just received --

6 MR. STRAUS: Objection. How many questions  
7 are there?

8 THE REFEREE: What's the relevance to  
9 Exhibit 38?

10 MR. SASSOWER: Well, the significance of  
11 38 is, your Honor, that this document was not  
12 in the possession of Feltman, Karesh, Feltman  
13 and the Kreindler firm, the self-styled public  
14 prosecutors, who accepted it as true and as I  
15 read Brady against Maryland, and I think I read  
16 it right, when a public prosecutor --

17 MR. STRAUS: Objection.

18 MR. SASSOWER: Your Honor asked a question.

19 MR. STRAUS: Is this a question to be put  
20 to Mr. Postel?

21 MR. SASSOWER: No.

22 THE REFEREE: You're giving me a discourse  
23 on criminal law.

24 MR. SASSOWER: You asked me, you probably  
25 know criminal law better than I do. In fact,

I'm sure of that fact.

THE REFEREE: You asked him to look at 38,  
and 38 is --

Q Did I make a motion to vacate the conviction  
based upon Brady against Maryland?

I'll refresh your recollection and attached  
Exhibit 38. Do you remember that motion?

THE REFEREE: When?

MR. SASSOWER: The motion was made in Decem-  
ber sometime.

THE REFEREE: When did you get 38? You said  
you never received it.

MR. SASSOWER: When I got it, I immediately,  
within a few days, made a motion.

MR. STRAUS: My mistake for sending it.

MR. SASSOWER: I said, all right, if you  
think it's a very funny thing --

THE REFEREE: Mr. Sassower --

MR. SASSOWER: -- to make a motion to vacate  
a conviction, then my sense of humor has been  
lost some place along the line.

THE REFEREE: The Grievance Committee is  
contending that you have no right to make any  
motions.

1  
2 MR. SASSOWER: Judge, I don't care what  
3 the Grievance Committee has said.

4 THE REFEREE: You're admitting you made mot-  
5 ions?

6 MR. SASSOWER: Of course I made motions.

7 THE REFEREE: So what's the relevance as  
8 far as continued cross-examination of this wit-  
9 ness?

10 MR. SASSOWER: Judge, because I have to tie  
11 something up.

12 THE REFEREE: What do you want to tie up?

13 MR. SASSOWER: Did you oppose this motion?

14 Q Did you submit papers to oppose this motion?

15 A I think I may have. I'm not sure. You have to  
16 show me the papers, Mr. Sassower.

17 There are lots of papers and you think I keep  
18 everything in my head?

19 MR. STRAUS: What difference does it make  
20 if Mr. Postel did or didn't oppose the motion?

21 What possible difference does it make to  
22 this charge?

23 THE REFEREE: Mr. Sassower says he's going  
24 to tie it together. Let's tie it together.

25 MR. SASSOWER: Judge, the Latin, falsus in uno,



1  
2 falsus in something.

3 THE REFEREE: Not falsus in something. Okay.  
4 I thought you were a Latin scholar.

5 MR. SASSOWER: I never took Latin. Cook is.  
6 Call Cook and you get a lot of Latin.

7 THE REFEREE: Cook is no longer the Chief  
8 Judge.

9 MR. SASSOWER: David Cook, the Attorney-  
10 General.

11 THE REFEREE: Before long you'll be quoting  
12 Lord Coke.

13 MR. SASSOWER: Great judge, but I think in  
14 England they pronounced it Cook also, also spelled  
15 like Coca Cola.

16 Q I show you this document.

17 THE REFEREE: Another document?

18 MR. SASSOWER: yes, sure.

19 THE REFEREE: For what purpose? Just -- Mr.  
20 Sassower, please. There has to be some semblance  
21 of order here as to what we're doing and what  
22 we're attempting to do and not just a fishing  
23 expedition.

24 Q Did you prepare this document that's signed by  
25 Mr. Raffe dated January 15, I think it is.

1  
2 MR. SASSOWER: Give me the date or give  
3 the stenographer a date.

4 MR. STRAUS: Your Honor, it's not marked  
5 for identification.

6 THE REFEREE: It will be Exhibit WW for  
7 identification.

8 MR. STRAUS: If your Honor pleases --

9 A Yes, I prepared this.

10 MR. STRAUS: What -- the fact that Mr. Pos-  
11 tel --

12 THE REFEREE: We've gone through it.  
13 Your position is he's trying to ascertain an answer  
14 from Mr. Postel that he can use in his cross-  
15 examination of Mr. Raffé.

16 Q Right?

17 A Yes, I prepared these papers.

18 Q And in whose office was it typed?

19 A Could have been at the word processing service  
20 I use; it could have been somewhere else.

21 Q What word processing service do you use?

22 MR. STRAUS: Objection.

23 THE REFEREE: He may have used your word  
24 processor.

25 MR. SASSOWER: Do you know why? We have --

1  
2 it's obtainable records in the County Clerk's  
3 office where this guy under his name submits  
4 papers in opposition. He's nowhere around. He  
5 doesn't know they exist.

6 THE REFEREE: Who are you talking about?

7 MR. SASSOWER: Postel, the Schneider firm  
8 is using his name.

9 THE REFEREE: Sir, once he puts his name on  
10 it --

11 MR. SASSOWER: He didn't put it down, he  
12 didn't put his name down.

13 THE REFEREE: So he's not wedded to it, if  
14 it's not his name.

15 MR. STRAUS: Are you representing that some-  
16 one forged Mr. Postel's name? If you're saying --

17 MR. SASSOWER: I don't know what you call  
18 forge.

19 THE REFEREE: Again, your original argument  
20 was that there was collusion among all the lawyers  
21 involved here so that one fellow prepared documents  
22 and the other one signed it; that's your position.

23 MR. SASSOWER: No, no. Do you know what my  
24 position is? I want to -- all I wanted you was to  
25 listen.

THE REFEREE: Exhibit WW for identification,  
mark it, please

(So marked)

Q Let's go back to UU. Was Mr. Bergson part of  
that stipulation, did he take part in that?

A I don't believe so.

Q Was he consulted on it?

A I don't believe so.

Q With respect to Respondent's TT --

A What's TT?

Q I'm sorry. Here. Did Mr. --

THE REFEREE: An agreement signed by Mr.  
Raffe, attorney for the receiver.

A He may have been apprized of the fact that it was  
being executed but he took no part in it.

Q Could you tell me which documents Mr. Bergson  
took part in?

MR. STRAUS: Objection. What difference does  
it make?

THE REFEREE: Sustained.

MR. SASSOWER: Your Honor, I'll make this  
short statement, and maybe I can, to a certain  
extent, accomodate Mr. Straus's request and your  
Honor's request.



1  
2 THE REFEREE: No, no, I'm not making any  
3 specific request other than --

4 MR. SASSOWER: Let me make a request.

5 THE REFEREE: -- other than what I must do,  
6 is to see that we discuss matters that are rele-  
7 vant.

8 MR. SASSOWER: Fine, I understand you. I  
9 may not agree with you wholeheartedly but I un-  
10 derstand you.

11 In an attempt to follow your Honor's in-  
12 structions and maybe I'm over-generalizing the  
13 point, at this juncture there is no evidence  
14 that I was given instructions except a letter  
15 that I got from Mr. Straus in November.

16 MR. STRAUS: The letter is in evidence and  
17 that's substantial.

18 We have indicated that Mr. Raffe will testify.

19 MR. SASSOWER: Right. Now, that's the point  
20 that I want to make, so, right now --

21 THE REFEREE: And the statement by Mr. Postel  
22 that on July 15, he spoke to you and apprized you  
23 of the fact that he's representing Mr. Raffe  
24 now and that you were no longer in the picture.

25 MR. SASSOWER: I'll discuss that point outside.

1 THE REFEREE: I wasn't there.

2 MR. SASSOWER: I'll discuss that point at  
3 some future date, but right now, there is no  
4 direct evidence that I was given instructions.  
5

6 MR. STRAUS: That's not true at all.

7 THE REFEREE: The letter, the conversation  
8 and then Mr. Raffe has to testify to what has al-  
9 ready been spread over the record about a conver-  
10 sation that he had with you in January of 1985.

11 MR. STRAUS: Mr. Postel also testified that  
12 there were other occasions that Mr. Sassower was  
13 present, that he had to know from the context,  
14 either from a court appearance or from the presence  
15 of Mr. Raffee that -- let's not argue what the  
16 record is.

17 Do you have an application?

18 MR. SASSOWER: No, no.

19 MR. STRAUS: Can we go ahead with the  
20 cross-examination?

21 MR. SASSOWER: Fine, okay.

22 THE REFEREE: Can we excuse the witness?

23 MR. SASSOWER: Absolutely not. I was going  
24 to make a suggestion but since I got interrupted --

25 MR. STRAUS: You didn't make a suggestion.

1  
2 MR. SASSOWER: I was going to make a sug-  
3 gestion.

4 THE REFEREE: I'll excuse, I'll have to ex-  
5 cuse the witness.

6 MR. SASSOWER: Your Honor, your Honor is  
7 Captain of the ship. All I can do is protest.

8 THE REFEREE: You can protest, but there is  
9 a limit.

10 MR. SASSOWER: There is a limit when people  
11 don't come with documents, I don't care, without  
12 even a scrap of paper.

13 You don't have to be, and, pardon, I'm not  
14 intending to insult your Honor, but you don't  
15 have to be very smart to know that something is  
16 being hidden.

17 MR. STRAUS: I renew my motion to terminate  
18 this cross-examination.

19 THE REFEREE: We have all the Petitioner's  
20 exhibits that are in evidence.

21 MR. SASSOWER: Judge, you can find out pre-  
22 cisely, this man's lying by getting his work  
23 sheets.

24 THE REFEREE: Sir, there are forty odd  
25 documents.



1  
2 MR. SASSOWER: Your Honor, all he has to do  
3 is take a work sheet, time sheet that he bills  
4 and put them in his pocket and come here but they  
5 hid it.

6 THE REFEREE: What's that got to do with it,  
7 how many hours he spent?

8 I don't care if he spent 20 minutes on the  
9 case.

10 MR. SASSOWER: Right. I'm telling you his  
11 work sheets, Schneider's work sheets, Kreindler's  
12 work sheets and you would have had in, in five  
13 documents, you'd have the whole case, but hide it  
14 and don't let me have a subpoena. I'll tell you,  
15 your Honor, those subpoenas are important and  
16 I'm going to emphasize it.

17 THE REFEREE: You keep talking about subpoenas.  
18 So far the only ones you handed me which I  
19 rejected were overly broad.

20 MR. SASSOWER: I'm asking for time sheets and  
21 work sheets.

22 THE REFEREE: That specific request. Denied.

23 MR. SASSOWER: The time sheets.

24 THE REFEREE: Yes.

25 MR. SASSOWER: You don't know what they contain



on them.

THE REFEREE: You told me time sheets.  
I know what time sheets are.

MR. SASSOWER: Do you want me to show you  
an example?

THE REFEREE: I don't need any examples.

MR. SASSOWER: Work sheets.

THE REFEREE: I don't need any work sheets.

MR. SASSOWER: Let me introduce it. I say  
it closes the case.

THE REFEREE: Mr. Sassower, let's pursue it.  
Mr. Postel did a miserable job of representing Mr.  
Raffe or that the attorneys for the receiver  
didn't do their job properly. What's that?

MR. SASSOWER: I'm not saying that and  
I'm not interested in that.

THE REFEREE: What are you saying again?

MR. SASSOWER: Why should I say something,  
your Honor, and then your Honor is going to make  
remarks? Okay.

I'm entitled to a subpoena duces tecum on rele-  
vant evidence, and, if I'm wrong --

THE REFEREE: That's correct, I agree with  
you one hundred percent, on relevant evidence.

1  
2 MR. SASSOWER: Some of these are public  
3 records, they are public records.

4 MR. STRAUS: Your Honor, I renew my  
5 application to excuse Mr. Postel.

6 Mr. Sassower has obviously exhausted whatever  
7 cross-examination he had in mind.

8 MR. SASSOWER: I'm not finished.

9 THE REFEREE: Denied at this time. Go ahead.

10 MR. SASSOWER: They're all going to come  
11 here and make it.

12 I can't finish, your Honor. They're at the  
13 County Clerk's office.

14 THE REFEREE: You haven't submitted a list  
15 to me.

16 MR. SASSOWER: I'm going to get them for you,  
17 your Honor.

18 MR. STRAUS: If your Honor pleases, it's  
19 been over thirty-five days -- please let me --

20 THE REFEREE: Mr. Postel, you are excused  
21 at this time and subject to recall at my direct-  
22 ion.

23 MR. STRAUS: Your Honor, I don't think that's  
24 fair to the witness and I don't think it's  
25 necessary and I'd like to be heard.

1  
2 Mr. Sassower was informed that Mr. Postel  
3 would be a witness thirty-five or thirty-six  
4 days ago. He has not submitted a single subpoena  
5 pertaining to any of the records which he keeps  
6 claiming he needs nor has he served a subpoena  
7 on Mr. Postel, nor has he made any effort to  
8 specify what documents he might need in a  
9 subpoena.

10 If he's failed to submit a subpoena pursuant  
11 to your instructions, the witness should not  
12 suffer.

13 This man has conducted no cross-examination.

14 MR. SASSOWER: He told --

15 MR. STRAUS: Now I have to put Mr. Postel  
16 on call for how long and at Mr. Sassower's whim.

17 THE REFEREE: Mr. Straus, you weren't listen-  
18 ing at my direction.

19 You are excused now. We'll resume next Tues-  
20 day.

21 MR. SASSOWER: Who are we going to have next  
22 Tuesday, and I'm not hold --

23 MR. STRAUS: There are two possible witnesses.  
24 I'm assuming that at this point, unless something  
25 happens, Mr. Postel is not required to come back.

1  
2 THE REFEREE: I'm not going to give him  
3 notice the same day, if I'm going to direct him,  
4 it will be at his convenience.

5 MR. STRAUS: There are two witnesses.  
6 There's Mr. Gerstein and there's Mr. Raffe. If  
7 we could finish with Mr. Raffe's testimony in  
8 the next three sessions, I could have Mr. Gerstein.  
9 He's not available the week of the 17th of March.

10 THE REFEREE: Who's available Tuesday, Mr.  
11 Raffe?

12 MR. STRAUS: Will Mr. Raffe be available?

13 THE WITNESS: Is Gerstein available?

14 MR. STRAUS: Gerstein would like to start  
15 and finish his testimony next week, if possible.

16 THE REFEREE: Have Gerstein here on Tuesday.

17 MR. STRAUS: Sure. I could have him on  
18 the 11th and 13th.

19 MR. SASSOWER: No.

20 THE REFEREE: Don't say no. That's his  
21 witness.

22 MR. SASSOWER: If you're going to put a  
23 witness on, I want him to finish and not say  
24 we're going to interrupt the cross-examination.

25 THE REFEREE: He says he'll finish with Mr.



Gerstein but not three weeks from now.

MR. STRAUS: Our witnesses have testified for one morning at the most and I represent that Mr. Gerstein's testimony can be no longer than two or three hours, tops. There is no obligation to conduct cross-examination until the walls crumble.

THE REFEREE: Anything else before we close the record?

MR. SASSOWER: Please have him bring -- you can look at the documents first, then I'll show you whether they are relevant, the time sheets and the work sheets.

THE REFEREE: Forget that.

MR. SASSOWER: I know because I say in my papers, your Honor and because I say it in my papers, I can win my case on that, so, it's denied.

THE REFEREE: You may win another case but it's not relevant here.

MR. SASSOWER: I'll show you they are relevant.

THE REFEREE: All right, goodnight. We're adjourned until next Tuesday at 10 o'clock.

oOo

LIST OF WITNESSES

CROSS

IRA POSTEL 781

LIST OF EXHIBITS

RESPONDENT

GG id 789

HH id 791

II id 793,794

JJ

KK id 799

LL id 804

MM id 807

NN id 809

OO id 810  
ev 811

PP id 849,850

QQ id 881

RR id 881

SS id 882

TT id 887

UU id 895

VV id 899

WW id 917