

PLATT, d.

CV 84 0305

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

HYMAN RAFFE, individually and on
behalf of PUCCINI CLOTHES, LTD.,

File No.

Plaintiffs,

-against-

Plaintiffs
Demand Jury
Trial on
First Cause
of Action.

CITIBANK, N.A., and JEROME H. BARR,
individually, and as executors of the
Estate of MILTON KAUFMAN; KREINDLER &
RELKIN, P.C.; LEE FELTMAN; FELTMAN,
KARESH, & MAJOR; ARUTT, NACHAMIE,
BENJAMIN, LIPKIN & KIRSCHNER, P.C.;
RASHBA & POKART, P.C.; EUGENE DANN;
ROBERT SORRENTINO; ROBERT ABRAMS,
as Attorney General of the State of
New York; JOHN V. LINDSAY; and SUPREME
COURT OF THE STATE OF NEW YORK, COUNTY
OF NEW YORK,

Defendants.

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Plaintiffs, by their attorney, GEORGE
SASSOWER, Esq., complaining of the defendants,
respectfully set forth and allege:

AS AND FOR A FIRST CAUSE OF ACTION

1. The jurisdiction of this Court is invoked,
pursuant to the provisions of Title 28, United States
Code, §§1331, 1343, this being a suit in law and equity
which is authorized by law, Title 42, United States Code
§1983 et seq., brought to redress the deprivation under

color of state law, statute, ordinance, regulation, custom or usage of rights, privileges, and immunities of the United States secured by the Constitution of the United States or by Act of Congress providing for equal rights of citizens and residents, Amendment XIV of the Constitution of the United States, and pendent, non-federal, jurisdiction. The rights here sought to be redressed are rights guaranteed by the due process, privileges and immunities, and equal protection clauses of the Fourteenth Amendment to the Constitution of the United States, and the matter in controversy exceeds the sum of \$10,000, as hereinafter more fully appears herein.

2. All of the times hereinafter mentioned, plaintiff, HYMAN RAFFE ["HR"], was and still is a citizen of the United States, within the jurisdiction of the United States, to wit., within the Eastern District of New York.

3. All of the times hereinafter mentioned, plaintiff, PUCCINI CLOTHES, LTD. ["Puccini"], was a domestic corporation organized under the laws of the State of New York, and since June 4, 1980, an involuntarily dissolved corporation, whose affairs and assets were and are under the exclusive custody and control of the Supreme Court of the State of New York, County of New York, County of New York.

4. On information and belief, defendant, CITIBANK, N.A. ["Citibank"], is a federally chartered bank under the jurisdiction of the United States.

5. On information and belief, defendants, KREINDLER & RELKIN, P.C. ["K&R"]; ARUTT, NACHAMIE, BENJAMIN, LIPKIN, & KIRSCHNER ["ANBL&K"]; and RASHBA & POKART, P.C. ["R&P"], are professional corporation organized and existing under and by virtue of the laws of the State of New York.

6. On information and belief, defendants, Citibank and JEROME H. BARR ["JHB"], are the executors of the Estate of MILTON KAUFMAN ["Kaufman"], by virtue of a decree of Surrogate's Court, Queens County, in the State of New York.

7. On information and belief, defendant, ROBERT ABRAMS, is the Attorney General of the State of New York ["AG"], whose functions are under color of state law.

8. Defendant, SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF NEW YORK ["SC"] is a court of general jurisdiction in the State of New York, whose functions are under color of state law.

9. On June 4, 1980, the assets and affairs of Puccini were, by decree of the SC, placed in its exclusive possession and control, in its administrative and ministerial capacity.

10. In order to aid SC in administering the assets and affairs of Puccini, as a matter of law, custom, and usage, it appoints a receiver, who also functions under color of state law.

11. On information and belief, as a matter of custom and usage, the receiver designated by SC is a relative, associate, or close friend of the designating jurist or other jurist.

12. On information and belief, as a matter of custom and usage, the proposed designated receiver is communicated with, advised of the action intended, and whether he desires to accept the appointment.

13. On information and belief, on or about the 4th day of June, 1980, the defendant, JOHN V. LINDSAY ["Lindsay"], was communicated with, advised of the proposed intended appointment, and accepted such designation, under color of state law.

14. Thereupon, the Order of Dissolution was entered as an official decree of SC, which, as here, the assets and affairs of Puccini became exclusively vested in the SC.

15. On information and belief, as an agent and representative of SC, in the administration of Puccini, the said Lindsay was named as receiver, as initially proposed by the SC and accepted by him.

16. On information and belief, under state and local law, a designated receiver becomes an agent of the court, subject to its exclusive control.

17. On information and belief, under state and local law, a designated receiver functions under generally recognized judicial or quasi-judicial standards of conduct, and those dealing with him are supposed to deal with him as such. Any interference with the performance of the duties and obligations of a designated receiver is a non-privileged contempt of court.

18. On information and belief, immediately after appointment, K&R ex parte, communicated with defendant, Lindsay and induced him to delay taking possession and control of Puccini's assets and affairs, contrary to the practice, custom and usage in such matters, and K&R induced Lindsay not to advise the others interested persons of his action or non-action, in all of which endeavors, Lindsay cooperated and acted jointly in.

19. On information and belief, thereupon, upon surrender of state custody of the assets and affairs of Puccini by Lindsay to K&R, and by the usurpation of such state rights by K&R, operating in concert and jointly with others hereinafter mentioned, K&R, ANBL&K, Citibank, JHB, and ROBERT SORRENTINO [Sorrentino], unlawfully took possession and control of Puccini, its assets and affairs, and began to dissipate its assets and affairs as suited their individual and joint private purposes, all of which made possible by the cooperation of defendant, Lindsay, in this matter.

20. On information and belief, the illegal and unlawful control of Puccini by the aforementioned, was pursuant to a conspiratorial agreement between them, and only made possible by the cooperation and inaction of Lindsay, who was under mandate to expeditiously take possession and control of Puccini, as an agent of the SC.

21. On information and belief, in order to conceal the illegal and unlawful activities of the aforementioned co-conspirators, they retained the services of R&P to prepare deceptive and misleading financial reports of Puccini, who agree to cooperate with the conspirators in this respect.

22. That the ex parte communications with Lindsay, by the aforementioned co-conspirators, was unknown to plaintiff, HR, and his attorney. Also unknown to HR and his attorney was Lindsay's failure to act in caring for the affairs of Puccini for a period in excess of seven (7) months, as agreed by him with the co-conspirators.

23. On information and belief, during such period of time and for a long period of time thereafter, the aforementioned co-conspirators, unlawfully and illegally continued in control of Puccini, whose affairs and assets continued to be in custodia legis, and during such further period they continued to dissipate its assets as suited their private purposes, all of which they kept secret from plaintiff, HR, his attorney, the AG, SC, and other interested, but non active conspiratorial parties.

24. On information and belief, on or about February 1, 1982, SC appointed and designated Lee Feltman, Esq., who was also closely associated with the designating jurist, as the new receiver, who then began to act under color of state law, Lindsay having, in the interim, belatedly declined appointment.

25. On information and belief, immediately upon appointment, the law firm of the receiver, Feltman, Karesh & Major, Esq. ["F,K, & M"], unlawfully solicited a retainer from Dann, on behalf of Puccini, with the cooperation of ANBL&K.

26. On information and belief, immediately upon appointment, LF and F,K, & M, entered into and became part of aforementioned conspiracy by and between K&R, ANBL&K, Citibank, Barr, Dann, Sorrentino. As part of such conspiracy LF and F,K, & M, both operating under color of state law, agreed to subordinate the interests of Puccini, to their own personal conflicting interests and the interests of conspiracy which they joined.

27. On information and belief, pursuant to such conspiratorial agreement, and for a further period of approximately twenty-two (22) months, defendants, LF and F,K, & M, concealed the unlawful dissipation of funds and the other activities of the other conspirators, even when revelation would have inured to the direct legal and financial benefit of Puccini.

28. On information and belief, in furtherance of such conspiracy and to conceal the unlawful and illegal dissipation of Puccini's assets, the co-conspirators, including LF and F,K, & M, had SC approve of the appointment of R&P as the accountants for Puccini, without revealing the prior affiliation of R&P with the original conspirators, and with full knowledge that as a matter of law, R&P could not act with the impartiality required of them as a judicial appointee.

29. On information and belief, acting in concert with the new conspirators, R&P, now also operating under color of state law, after more than nine (9) months, have failed and refused to render their authorized report, as they have been unable to do so without disclosing the unlawful actions of their co-conspirators, R&P's association with them, and their own deceitful and misleading reports.

30. On information and belief, in order to further conceal the activities of the co-conspirators, the co-conspirators have destroyed or concealed many of the financial books and records of Puccini.

31. On information and belief, also in furtherance of such conspiracy, LF and F,K, & M, have failed, neglected, and refused to (1) take any action to recover the monies and assets unlawfully dissipated after June 4, 1980 on behalf of Puccini, since it would be essentially an action against their own co-conspirators; (2) commence any action against ANBL&K for their neglect in causing a default on behalf of Puccini; (3) compel compliance with the mandate that a Statement of Affairs

be filed as of June 4, 1980, by their co-conspirators; (4) compel disclosure of the terms of the initial conspiracy as agreed to in June of 1980 in attempting to indirectly rape the assets of Puccini under the guise of attorneys' fees for K&R; (5) disclose or dispute the perjurious and false statements submitted by K&R on their own behalf and on behalf of their clients, although disclosure would have inured directly to Puccini's benefit; (6) disclose the wrongful dissipation of Puccini's assets even when such disclosure would inure directly to Puccini's benefit; (7) resist the indirect claims against Puccini, although there is a legal and legitimate basis for such resistance; and (8) act properly on behalf of Puccini, on the contrary, betraying their trust.

32. Also in furtherance of this conspiracy, ANBL&K and K&R, who represent equity interests in Puccini fail and refuse to resist any and all claims made by LF or F, K, & M, in fact conduct themselves in order to increase their money claims.

33. On information and belief, that by state and local law, the AG is a party in interest, in an involuntary dissolution proceeding, whose obligations consist of, inter alia, a general duty to see that the functions of the receivership are properly executed and to represent the rights of those unrepresented or not permitted to be represented.

34. On information and belief, although the AG knows and is aware of the unlawful and illegal dissipation of funds and assets by the conspirators, he has failed and neglected to protect those who have interests in Puccini. On the contrary, the AG has undertaken to represent, optional and conflicting interests.

35. That the SC is also aware of the conclusive evidence of the unlawful activities of the co-conspirators and the concealment of same by its appointed receiver and his law firm they have deliberately failed to and neglected to protect those who have interests in Puccini, as well as Puccini itself. On the contrary, members of SC has taken actions intended to deprive plaintiffs of their federal rights and conceal the defalcations of the co-conspirators.

36. On information and belief, by custom and usage, generally a receivership from SC, is a mere predation and the exercise of state justice is merely an exercise in ministerial approval. Anyone taking a position contrary to a court appointed receiver, on matters of financial interest to him or his law firm, faces unlawful and unconscionable burdens.

37. On information and belief, by custom and usage, the state justices generally recognize that a receiver, merely by reason of his appointment, is intimately associated with a colleague of theirs and consequently such receiver obtains more than equal justice, and his adversaries, less than equal justice, if any justice at all.

38. On information and belief, furthermore, with respect to the receivership involving Puccini, because of the neglect, egregious, and criminal conduct of the appointed receivers, as well as its own neglect, the SC has attempted to unlawfully burden and obstruct the rights and remedies of those seeking to protect Puccini's rights and interests, and conceal the true nature of the events.

39. In addition to having a 25% stock interest in Puccini, HR, is a creditor of Puccini to the extent of approximately \$500,000. Unquestionably, HR, has the most substantial interest in Puccini, greater than all other financial interests combined.

40. That by reason of the activities of the co-conspirators the interest of plaintiff, HR, as a creditor, as well as a stockholder are being completely eradicated, legally and financially.

41. That by reason of the aforesaid plaintiffs have been damaged and demand damages, general and punitive, in the sum of fifty million dollars (\$50,000,000).

AS AND FOR A SECOND CAUSE OF ACTION

42. Plaintiffs, repeat, reiterate, and reallege, each and every allegation of the complaint marked "1" through "41" inclusive, with the same force and effect as though more fully set forth herein, and for alleges:

43. That by reason of the aforesaid, as a matter of law, the aforesaid LF cannot act as a representative of SC, under color of state law, without violating plaintiffs' federal rights and standards imposed on those acting judicially or on behalf of the judiciary, and LF must be removed or enjoined from acting contrary to plaintiffs federal rights, a matter on which the SC has thus far, refused to enforce.

AS AND FOR A THIRD CAUSE OF ACTION

44. Plaintiffs, repeat, reiterate, and reallege, each and every allegation of the complaint marked "1" through "43" inclusive, with the same force and effect as though more fully set forth herein, and for alleges:

45. That by reason of the aforesaid, as a matter of law, the aforesaid SC cannot serve as a judicial forum for the adjudications of plaintiffs rights, under color of state law, without violating plaintiffs' federal rights and removal to a federal or other impartial forum must be decreed.

46. That some of the actions and conduct of SC which, individually and cumulatively, violate plaintiffs federal rights in this matter are: (1) adjudications in a matter on which it has substantial conflicting ministerial and administrative functions; (2) adjudication of plaintiffs rights, ex parte, in non-appealable fashion, including striking HR's jury demand by merely changing judicial records; (3) making various oral directions for HR to follow, with their implied threat, contrary to valid extant orders including those of the Appellate Division; (4) generally making non-public directions and taking non-public actions, despite HR's insistence, that in a quasi-criminal action, involving official misconduct, everything take place in an open court, where the public and media may be present; (5) vacating HR's Notice to Admit, aimed at compelling admissions to relevant conduct; (6) quashing a subpoena duces tecum served on a party for relevant documents; (7) repeated threats at and imposing costs for HR's attempts to obtain his legitimate pre-trial rights; (8) embracing and motions,

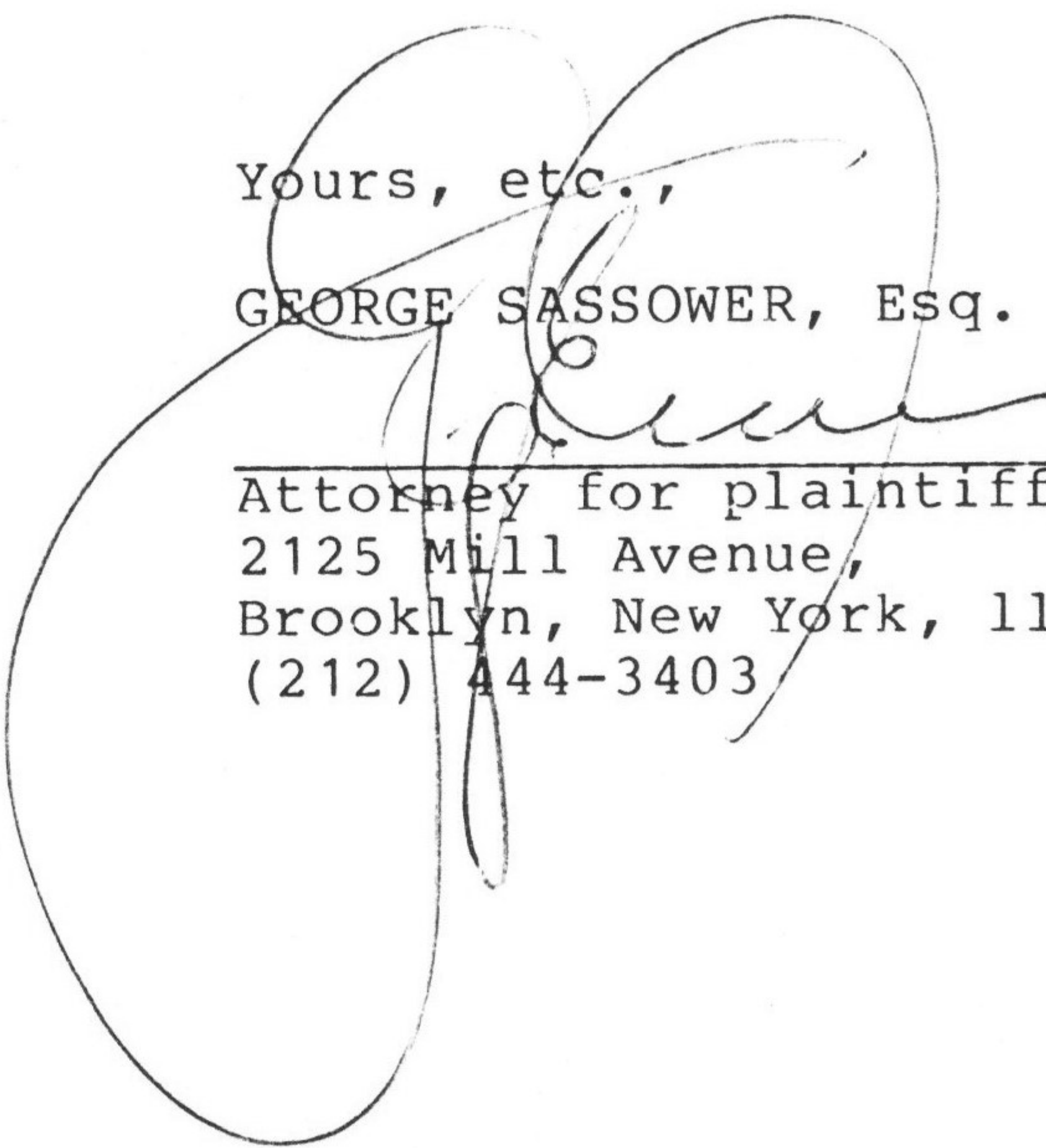
which one justice, himself recognizes, are by law and custom, supposedly to be decided by another judge, to himself; (9) intentionally delaying non-final decision so as to make the appellate process unavailable; (10) running roughshod over HR, in compelling him to proceed to trial, so as to make non-appealable or reviewable the adverse pre-trial orders; (11) rendering orders while there is pending, sub judice, a motion to disqualify such jurist; (12) excluding anyone, who opposes the fees and disbursements of F, K, & M, to participate in the scheduled hearings; (13) rendering decisions and orders on papers not timely or properly served to plaintiffs prejudice; (14) rendering decisions and orders based upon "switched" judicial papers; (15) improperly denying HR of the counsel of his choice without due process; (16) improperly excluding the counsel of HR from arguing the matter, contrary to the uniform practice in similar cases; (17) unlawfully not permitting HR to prosecute an appropriate and proper appeal; and (18) denying plaintiffs their federally protected rights.

WHEREFORE, it is respectfully prayed that plaintiff be awarded judgement against defendants in the sum of fifty million dollars (\$50,000,000), compensatory and punitive damages; Lee Feltman, Esq., be enjoined from acting in a judicial or quasi-judicial manner as a representative of Puccini Clothes, Ltd.; removing the state action to a constitutional and appropriate forum meeting federal standards; together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.

Dated: January 20, 1984

Yours, etc.,


GEORGE SASSOWER, Esq.


Attorney for plaintiffs
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(212) 444-3403

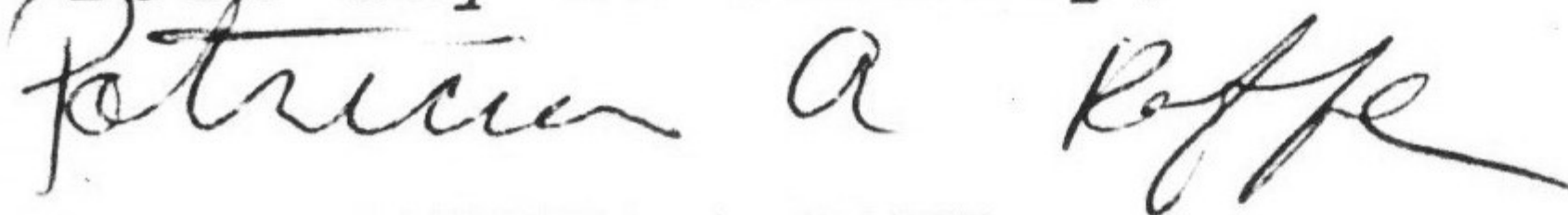
STATE OF NEW YORK)
CITY OF NEW YORK)ss.:
COUNTY OF KINGS)

HYMAN RAFFE, first being duly sworn, deposes,
and says:

I am one of the plaintiffs in the above
entitled action and have read the foregoing complaint
and the same is true of my own knowledge except as to
matters stated on information and belief, and as to
those matter he believes same to be true.


HYMAN RAFFE

Sworn to before me this
20th day of January, 1984



PATRICIA A. RAFFE
Notary Public, State of New York
No. 30-4761120
Qualified in Nassau County
Commission Expires March 30, 1984