

SUMMONS IN A CIVIL ACTION

United States District Court	DISTRICT SOUTHERN DISTRICT OF NEW YORK
HYMAN RAFFE, et al., v. DONALD B. RELKIN, et al.,	DOCKET NO: 85 CIV 4758 TO: (NAME AND ADDRESS OF DEFENDANT)

YOU ARE HEREBY SUMMONED and required to serve upon

PLAINTIFF'S ATTORNEY (NAME AND ADDRESS)

GEORGE SASSOWER, Esq.
2125 Mill Avenue,
Brooklyn, New York, 11234

an answer to the complaint which is herewith served upon you, within 20 days days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

CLERK RAYMOND F. BURGHARDT, CLERK	DATE June 3, 1985
(BY) DEPUTY CLERK <i>John M. Coffey</i>	

JOHN COFFEY

FULL TITLE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
HYMAN RAFFE, individually and on behalf
of PUCCINI CLOTHES, LTD., GEORGE SASSOWER,
SAM POLUR, and ELENA RUTH SASSOWER,

Plaintiffs,

-against-

DONALD B. RELKIN; MICHAEL J. GERSTEIN;
KREINDLER & RELKIN, P.C.; ARUTT, NACHAMIE,
BENJAMIN, LIPKIN & KIRSCHNER, P.C.; LEE
FELTMAN; DONALD F. SCHNEIDER; EDWARD
WEISSMAN; FELTMAN, KARESH & MAJOR; JEROME
H. BARR and CITIBANK, N.A., individually
and as the executors of the last will and
testament of MILTON KAUFMAN; DONALD
DIAMOND; XAVIER C. RICCOBONO; IRA GAMMERMAN;
WALTER M. SCHACKMAN; DAVID B. SAXE;
THOMAS V. SINCLAIR, JR.; MARTIN H. RETTINGER,
and DAVID S. COOK,

Defendants.

-----x

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
HYMAN RAFFE, individually and on behalf
of PUCCINI CLOTHES, LTD., GEORGE SASSOWER,
SAM POLUR, and ELENA RUTH SASSOWER,

Plaintiffs,

-against-

Jury Trial
Demanded

DONALD B. RELKIN; MICHAEL J. GERSTEIN;
KREINDLER & RELKIN, P.C.; ARUTT, NACHAMIE,
BENJAMIN, LIPKIN & KIRSCHNER, P.C.; LEE
FELTMAN; DONALD F. SCHNEIDER; EDWARD
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WALTER M. SCHACKMAN; DAVID B. SAXE;
THOMAS V. SINCLAIR, JR.; MARTIN H. RETTINGER,
and DAVID S. COOK,

Defendants.

-----x
Plaintiffs, by their attorney, GEORGE
SASSOWER, Esq., complaining of the defendants,
respectfully sets forth and alleges:

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 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 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 XIV 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.

2a. That at all of the times hereinafter mentioned, and on information and belief, the defendants Donald B. Relkin, Esq. ["Relkin"], Michael J. Gerstein, Esq. ["Gerstein"], Lee Feltman, Esq. ["Feltman"], Donald F. Schneider, Esq. ["Schneider"], Edward Weissman, Esq. ["Weissman"], Jerome H. Barr ["Barr"], and David S. Cook, Esq. ["Cook"], are attorneys, duly admitted to practice law in the courts of the State of New York.

b. That at all of the times hereinafter mentioned, and on information and belief, the defendant, Kreindler & Relkin, P.C. ["K&R"], and Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C. ["ANBL&K"], are professional corporations, duly organized to practice law in the courts of the State of New York.

c. That at all of the times hereinafter mentioned, and on information and belief, the defendant, Feltman, Karesh & Major, Esqs. ["FK&M"], is a professional firm engaged in the practice of law.

d. That at all of the times hereinafter mentioned, and on information and belief, the defendant, Citibank, N.A. ["Citibank"], was and still is a federally regulated bank, duly authorized to do business in the State of New York.

e. That at all of the times hereinafter mentioned, the defendants, Barr and Citibank, were and still are the authorized and qualified executors of the last will and testatment of Milton Kaufman ["Kaufman"].

f. That at all of the times hereinafter mentioned, the defendant, Hon. Xavier C. Riccobono ["Riccobono"] was and is the Administrative Judge of the Supreme Court of the State of New York, County of New York ["SCNY"].

g. That at all of the times hereinafter mentioned, Referee Donald Diamond ["Diamond"], is a Special Referee in the SCNY.

h. That at all of the times hereinafter mentioned, Hon. Ira Gammerman ["Gammerman"], is a Justice of the SCNY.

i. That at all of the times hereinafter mentioned, Hon. Walter M. Schackman ["Schackman"], Hon. Thomas V. Sinclair, Jr. ["Sinclair"], Hon. Martin H. Rettinger ["Rettinger"], and Hon. David B. Saxe ["Saxe"], were and are Acting Justices of SCNY.

3a. That at all of the times hereinafter mentioned, Relkin was and still is a senior law partner in K&R.

b. That at all of the times hereinafter mentioned, Gerstein was a member in the firm of K&R, and on information and belief a partner in said firm.

c. That at all of the times hereinafter mentioned, Feltman was a senior partner in the firm of FK&M.

d. That at all of the times hereinafter mentioned, Schneider was a member in the firm of FK&M, and on information and belief, a partner in said firm.

e. That at all of the times hereinafter mentioned, Weissman was a member of the firm of K&R and thereafter a member of the firm of FK&M.

4a. That at all of the times hereinafter mentioned, Puccini Clothes, Ltd. ["Puccini"] was and is a domestic corporation which was involuntarily dissolved on June 4, 1980, by a decree of the SCNY.

b. That at all of the times hereinafter mentioned, George Sassower, Esq. ["Sassower"], and Sam Polur, Esq. ["Polur"], were and are attorneys engaged in the practice of law.

5a. That at all of the times hereinafter mentioned, the plaintiff Hyman Raffe ["Raffe"], was and is a 25% shareholder in Puccini and has a judgment and a liquidated claim against it in excess of \$500,000.

b. That at all of the times hereinafter mentioned, the plaintiff, Sassower, has a judgment against Puccini in a sum of \$27,912.42.

c. That at all of the times hereinafter mentioned all the individual plaintiffs were and still are citizens of the United States.

6a. The legal relationship between the cross-guarantees executed by the stockholders of Puccini and Puccini itself, is that Puccini is the ultimate obligor under the theory of indemnification and subrogation for payments made by any individual stockholder under such cross-guarantees.

b. Such ultimate liability by Puccini and right of contribution from the other stockholders was never doubted by anyone at anytime under the theory of subrogation.

c. The same conclusion was reached under the theory of indemnification by Hon. Martin B. Stecher on September 9, 1982, by Sinclair on October 28, 1982, and affirmed on November 3, 1983 (Barr v. Raffe, (97 A.D.2d 696, 468 N.Y.S.2d 332 [1st Dept.])).

d. It is hornbook law, that to destroy or prejudice the right of indemnification or subrogation, nullifies completely or pro tanto the (cross) guarantees against a non-consenting guarantor.

7a. That on June 4, 1980, Puccini was involuntarily dissolved by Sinclair, on the petition of Barr and Citibank as 25% stockholders thereof.

b. As a matter of law, by the very terms of the decree of June 4, 1980 itself, as well as by subsequent orders, the assets and affairs of Puccini became custodia legis.

c. The decree of June 4, 1980, designated Hon. John V. Lindsay as Puccini's receiver, who as the court's agent, was to qualify as such by merely taking his oath of office and filing a wholly insufficient bond of \$100,000.

d. Hon. John V. Lindsay had every intention of qualifying as receiver until communicated with, ex parte, by Relkin. He contemptuously interfered with the judicial process and its designated agent. Relkin did this surreptitiously without advising Raffe or his attorney, Sassower.

e. Having induced Lindsay not to qualify, Relkin, K&R, Barr and Citibank unlawfully took possession of Puccini's judicially entrusted assets. They began to dissipate same as they unilaterally saw fit. They did so for their own, not for Puccini's benefit.

8a. At all material times herein, Riccobono was the administrative judge of SCNY, with a concomitant trust responsibility, particularly when there is no receiver acting under bond or via an insufficient bond (48A CJS, Judges §91, p. 700, et seq.).

b. Even before (Pulliam v. Allen, U.S. , 104 S.Ct. 1970, 80 L.Ed. 565), conduct resulted or could result in liability for losses sustained to the judicial trust (Kings County v. United Pacific, 72 Wash 2d 604, 434 P.2d 554; Lide v. Fidelity, 191 S.C. 297, 4 S.E.2d 263; Williams v. Weeks, 70 S.C. 1, 48 S.E. 619).

Instructively, there is no known legal authority immunizing the court or judge for the comparable or similar misfeasance, as was thereafter alleged by Raffe and Puccini against Riccobono, SCNY and/or the State of New York in conformity with the doctrine of "judicial immunity".

c. Twenty (20) months after the decree of dissolution, and on February 1, 1982, by Order of the SCNY, Feltman was designated as the Receiver and agent for Puccini, and has since such designated time been acting under "color of state law".

d. Since shortly after February 1, 1982, and continuously to the present time, FK&M has, under "color of law", been allegedly acting on behalf of Feltman and Puccini.

9a. On and after June 4, 1980, while title and right of possession of Puccini's assets were in the SCNY, they were massively dissipated by K&R and its clients and/or their designees, including ANBL&K.

b. K&R, and its clients, Barr and Citibank, entered into an unlawful agreement with ANBL&K, and thereafter with Feltman, FK&M, and others, to conceal from Raffe, Sassower, and the Court this larceny of Puccini's judicially entrusted assets.

c. As part and parcel of such conspiracy to obstruct justice, Relkin prepared, and had his clients Barr and Citibank execute, two perjurious affidavits, vehemently denying that any dissipation of assets had occurred after June 4, 1980; which material misstatements they knew were perjurious and were intended to deceive the Court. They succeeded.

d. ANBL&K had actual knowledge the affidavits were perjurious. They had participated in this unlawful dissipation of these judicially entrusted assets. They knew that if these perjurious affidavits and affirmation were believed by the Court, there would be a judgment over by Raffe as against Puccini for the full amount and against their law firm clients, Eugene Dann and Robert Sorrentino, for two thirds the amount. Nevertheless, betraying the legitimate interests of its clients, they failed to expose these perjurious affidavits.

e. Likewise, Feltman and FK&M had actual knowledge the Kreindler-prepared affidavits were perjurious. Significantly, they had in their possession and control Puccini's financial books and records. They also knew that if this perjurious submission were

believed by the SCNY, that the result would be a judgment over by Raffe as against their judicial trust, Puccini, for the full amount. They nonetheless failed to expose same under an apparently unlawful and corrupt pecuniary arrangement they made with K&R and its clients.

10. The perjurious affidavits submitted to SCNY, and specifically to Sinclair, were:

a. Barr's affidavit of July 21, 1981. Notably, Barr was also an associate of K&R. In a judicially submitted and filed affidavit, Barr swore:

"Unfortunately, it is necessary to correct some of the incredible misstatements and outright falsehoods contained in the Raffe affidavits.

The Estate of Kaufman has received no monies from Puccini Clothes, Ltd. ... [He and Citibank] do not have any access to it['s assets], nor have they received any monies from Puccini."

Recently, this false and perjurious affidavit was confessed to having been prepared by Relkin.

Citibank's, Barr's co-plaintiff,
submitted a state judicially-filed affidavit, verified
July 29, 1981, which swore:

b. "Raffe claims that the plaintiffs and the third party defendants have entered into some unspecified agreement ... and pursuant to which the 'assets [of Puccini] have been dissipated for the benefit of plaintiffs'. Once again, no documentary evidence has been submitted in support of this groundless assertion. ... The unsupported and baseless charge that the Estate [of Milton Kaufman] has dissipated the assets of Puccini Clothes, Ltd. is totally false. The Estate has received no monies whatsoever from Puccini Clothes, Ltd."

Recently, this false and perjurious affidavit was also confessed to having been prepared by Relkin.

c. Knowing such tortious dissipation of assets was a good and valid defense to Raffe, K&R back-dated a motion for summary judgment. This predictably, triggered an automatic stay of disclosure CPLR 3214(b).

K&R, in a supporting affirmation dated July 2, 1981 stated:

"... defendant (Raffe) may not argue that the automatic stay should be lifted, for discovery here is unnecessary and is simply a delaying tactic as the defendant, Hyman Raffe has absolutely no defense to this action."

d. These sworn state judicially submitted and resubmitted and filed affidavits and affirmation went undisputed by ANBL&K, with knowledge that if same were believed by the Court, Justice Sinclair presiding, a judgment would result against Raffe, as a defendant. This would further result in a judgment over against their clients, the third party defendants. This included Puccini, the judicial trust.

e. When, for other reasons, this motion for summary judgment by K&R was denied, without prejudice, and thereafter resubmitted once more by K&R, it was once again under an agreement with ANBL&K, Feltman, and FK&M, that they would not expose the truth.

ANBL&K, Feltman, and FK&M, had actual knowledge, inter alia, from the Order of Hon. Martin B. Stecher, dated September 9, 1982, that if such perjurious submissions were believed by Sinclair, which His Honor did, it would result in a judgment over against the the clients of ANBL&K, as well as Puccini, the ward of the court, supposedly under the care and protection of Feltman and FK&M.

f. The perjurious material submissions by K&R, the concealment of same and the other contrived defenses by ANBL&K, LF, and FK&M, caused judgment to be entered in favor of Barr and Citibank against defendant, and in favor of defendant over, as against Puccini [\$475,425.86], and for two-thirds that amount [\$316,950.57] as against the clients of ANBL&K.

g. Indeed, neither ANBL&K nor FK&M ever asserted a first party defense against the claims of the clients of K&R (CPLR §1008), even after the enormity of the dissipation of Puccini's assets was publicly disclosed.

h. The open and openly-defiant corruption existing in the state judicial forum in the Puccini litigation is such that even after 1984, when the true nature of the K&R perjurious submissions were disclosed, Feltman and FK&M, resisted any and all attempts, in the presence of members of the judiciary of the SCNY, and even, at times, with their active support, and the tacit approval of Cook, their attorney, to vacate such perjuriously-recovered judgment by clients of K&R; even though the only legitimate consequence to their client and trust, Puccini, was that it would be relieved of liabilities of at least \$500,000!

11a. To further conceal this massive dissipation of judicially-entrusted assets, Feltman, operating in concert with his law firm, FK&M, K&R, and ANBL&K, petitioned the court to specifically have Rashba & Pokart ["Rashba"], a firm of certified public accountants, to act under "color of law", to make inquiry about certain financial matters relating to Puccini in response to issues duly raised by Raffe.

b. The petition was corruptly made. The intent was to, inter alia, delay further financial inquiry by Raffe, since the questions which Feltman desired answered were already known to him, FK&M, and their co-conspirators.

c. Without openly revealing any disqualifying relationships, the defendant Rettinger, on behalf of SCNY, by Order dated April 6, 1983 appointed Rashba & Pokart as investigatory accountants, at Puccini's expense, to act under "color of law".

d. Indeed, it was later learned that Rashba were the accountants for K&R and/or its clients, and that previously ANBL&K had unlawfully taken \$10,000 from Puccini, in addition to other monies, "laundered" \$6,200, and gave it to Rashba in payment of an invoice to K&R, keeping for itself the sum of \$3,800, as a "laundering fee".

12a. Additionally, it served the purpose of the conspirators to disqualify and keep disqualified Sassower, who suspecting the corrupt state of affairs engineered by K&R, periodically read to the co-conspirators, "the riot act", as hereinafter set forth.

b. Thereafter, by surreptitiously giving to the Court a different set of papers than those initially submitted, and by such extrinsic fraud, they transmogrified Sassower's opposing papers from "sense" to "nonsense", and caused a limited disqualification.

c. In many other ways, the said conspirators, operating under "color of law" committed wrongs against the plaintiffs, including Puccini, the helpless judicial trust - made so by the court itself.

13a. On November 7, 1983, Sassower and an employee of Raffe, ascertained for the first time some of the documented, "hard evidence", of the dissipation of Puccini's assets after June 4, 1980.

b. About November 21, 1984, Raffe received photostatic copies of such documented "hard evidence".

c. On January 24, 1984, ANBL&K in a state judicially-filed affirmation, admitted that it took a portion amount of Puccini's assets, in excess of \$10,000, after June 4, 1980 and gave \$6,200 therefrom to Rashba & Pokart.

d. On March 5, 1984, Rashba & Pokart issued a financial report, filed shortly thereafter in federal court, revealing a significant dissipation of Puccini's assets after June 4, 1980.

e. On June 6, 1984, there emerged the receipt of a copy of a check issued by ANBL&K, in the sum of \$6,200, payable to Rashba & Pokart, in payment of a bill to K&R.

f. June 13, 1984, Barr, in an state judicially-submitted affidavit, admitted there was received some 17 checks for "approximately \$6,500" from Puccini after June 4, 1980.

AS AND FOR A FIRST CAUSE OF ACTION BY ALL
PLAINTIFFS AGAINST ALL DEFENDANTS

14. Plaintiffs repeat, reiterate, and reallege each and every paragraph and subparagraph marked "1" through "13" inclusive, with the same force and effect as though more fully set forth herein; and further allege:

15a. On or about the 23rd day of January, 1984, there was served on Riccobono a copy of a summons and complaint, on behalf of SCNY, filed in federal court on January 20, 1984.

b. The complaint clearly cited serious acts of neglect, misconduct, abandonment of trust obligation by Riccobono and his office, in the administration of the Puccini trust, as well as misconduct by some members of SCNY, having in addition thereto, suspect administrative overtones as well.

c. Absolute independence by each and every member of the judiciary, is a constitutional necessity under, inter alia the "due process clause" of the United States Constitution.

d. Any interference with judicial independence in the decision-making process is improper, unethical, unlawful, and unconstitutional, as to the jurist, to the litigant, and to the public.

e. Any power or authority given to an administrative judge, including Riccobono, is and must be limited by the aforementioned legal and constitutional considerations.

f. The appearance of impropriety and/or measured interference with the judicial process also has ethical, legal, and indeed substantive constitutional overtones.

g. Following the institution of the federal litigation on January 20, 1984, there followed claims against the State of New York based upon the neglect of Riccobono and SCNY in the Puccini matter; a second federal lawsuit which included Riccobono and Diamond as named defendants; as well as demands and legal proceedings against Riccobono for an accounting and an inspection of Puccini's financial books and records.

As the issues became more sharply defined, the demands and challenges of this crucial litigation became more adversarial and intense. Omnipresent in the implausible achievement by the judicial defendants and their satraps in this sixth year since Puccini's assets and affairs became custodia legis, they have thus far stonewalled an indispensable accounting, final nor intermediate. They have prevented the equally indispensable inspection of all the financial books and records of their judicial trust. Indeed, to the extent that isolated records have been made available, the recorded unlawful dissipation has been massive.

h. As a matter of constitutional and statutory law (Judiciary Law §14), Riccobono was disqualified from any judicial or quasi-judicial functions in the Puccini related litigation from, at the latest, the time he was served with such summons and complaint from the federal court on January 23, 1984 (Matter of Capoccia, 104 A.D.2d 536, 479 N.Y.S.2d 160 [3d Dept.]). The disqualification was jurisdictional in

nature (Ellentuck v. Klein, 570 F.2d 414, 424 [2d Cir.]). Consequently Riccobono's actions, even were they judicial in nature, are a nullity. They have no monetary-damage immunity adhering to them (LaPier v. Deyo, 100 A.D.2d 710, 474 N.Y.S.2d 597 [3d Dept.]).

i. All the parties to this litigation were aware that Riccobono was disqualified to act in any manner in the Puccini litigation, except as trustee of Puccini, on or after January 23, 1984. The force and effect of the mandate that Riccobono recuse himself increased geometrically with the passage of time.

j. When it appeared that Riccobono was not disqualifying himself, nor taking any action as Puccini's trustee or otherwise, to recover the dissipated assets, Sassower began making demands on his attorney, Cook, that Riccobono and his office formally recuse themselves.

k. Such demands were more urgently made by Sassower to Cook as disquieting information became available. Filing of the Rashba report, dated March 5, 1984, in federal court, starkly revealed an unlawful dissipation of assets more extensive than previously surmised. The questionably disappearance of most of Puccini's financial books and records elevated disquietude to suspicion.

l. Feltman, FK&M, ANBL&K, K&R [and its clients] acutely aware of an accelerating legal peril, conspired to deprive Raffe, Sassower, and Puccini of access to the state judicial forum. For their financial and personal salvation they would more closely embrace their mentors, and otherwise "engineer" the state judicial system against Raffe and Sassower.

m. Feltman, FK&M, ANBL&K, K&R [and its clients] recognized there would be motions by Raffe, one of which had already been made by Sassower, to undo the corruptly-obtained judgments, orders and decisions previously obtained by them. These defendants and their collaborators knew Sassower and Raffe would press hard for an accounting and investigation as to the whereabouts of most of Puccini's books and records, now reportedly missing.

n. Thus, FK&M on their own behalf and on behalf of their co-conspirators, and on information and belief, via enlistment of others, approached Riccobono and his office, ex parte, for the avowed purpose of a "single" ["controlled"] jurist for all Puccini-related litigation, although they had actual knowledge, as did Riccobono himself, that as a matter of law and ethics, he, Riccobono, was absolutely foreclosed from having any ongoing judicial or administrative function in the Puccini litigation. Equity and constitutional limitations forbade such a legally-incestuous relationships.

o. Riccobono, with clear notice that further litigation was forthcoming in the Court of Claims and state Supreme Court, naming him personally as being largely responsible for the Puccini administrative fiasco, and concomitantly, having a trustee's obligation towards Puccini, instead of disqualifying himself, became hyperactive in the Puccini litigation. He defiantly designated Diamond to serve as a "judicial blocking back". He imposed, through Diamond, ad hoc

rules for the Puccini litigation. On information and belief, Riccobono circulated confidential information to various members of the judiciary concerning such litigation and "directed" their judicial findings, ruling and subservience.

p. As the litigation increased in intensity with the passage of time, so did Riccobono's interference with judicial independence, either personally or through his subalterns, Diamond and Gammerman, until he virtually held all involved judicial members of SCNY in intellectual and administrative thrall and bondage.

q. Thus, at all times subsequent to January 23, 1984, the SCNY was not a constitutional forum of integrity and independence because of the calculated activities of Riccobono, Diamond, and Gammerman. They became, unabashedly, a trio of judicial "fixers".

16. As a result of the foregoing plaintiffs having been damaged and demand \$1,000,000, actual and punitive damages.

AS AND FOR A SECOND CAUSE OF ACTION BY ALL
PLAINTIFFS AGAINST ALL DEFENDANTS

17. Plaintiffs repeat, reiterate, and reallege each and every paragraph and subparagraph marked "1" through "15" inclusive, with the same force and effect, as though more fully set forth herein, and further allege:

18a. The most important object of K&R [and its clients], Feltman, FK&M, ANBL&K and Riccobono, was to deny plaintiffs access to the courts, particularly for CPLR 5015(a)(c) and Article 31 relief, as well as to thwart an accounting or the legal mechanics for obtaining basic secreted financial information concerning Puccini.

b. For such purpose, by a non-appealable directive, with false and misleading recitation clauses, mailed and published April 3, 1984, Riccobono made the calculated appointment of Diamond.

c. The message was clear -- that although relief was compelling, and was unbeatable on the merits -- any and all relief was to be denied to the plaintiffs without ever considering the merits.

In short -- constitutional access to the state courts was to be denied to the plaintiffs!

d. Such corruptly fostered discussions, understandings, and agreements were so effective that since publication of the Riccobono, non-appealable ukase, on April 3, 1984, virtually no motion initiated by plaintiffs, albeit requesting compelling relief, has resulted in a determination on the merits.

Indeed, by self-proclamation, Diamond and thereafter Gammerman, annointed themselves with the power to determine whether a motion, even when of right, could be made.

19a. The initial non-appealable ukase by Riccobono, was [back]dated March 26, 1984, three weeks after the report of Rashba & Pokart of March 5, 1984, and mailed on April 3, 1984.

Diamond was appointed to "hear and determine" all "remaining issues" in the Puccini dissolution proceeding and all discovery motions; and "hear and report" all other motions made returnable in Special Term Part I only of SCNY, except those pending sub judice.

b. The authority given Diamond was clearly beyond his jurisdictional authority, insofar as he was given the power to "determine" (CPLR §4317[b]). As unilaterally expanded by Diamond, almost immediately thereafter, was his authority, vel non, was clearly improper, illegal, and unconstitutional, as hereinafter set forth.

c. Thereafter, in and about December 1984 and January 1985, when Diamond's authority over the judicial thrall began to attenuate, Gammerman was enlisted by K&R, Feltman, FK&M, Riccobono and Diamond to reinforce their set-in-place judicial-blockade of SCNY.

d. As a result of ex parte discussions and agreements by and on behalf of Feltman, FK&M, ANBL&K, K&R [and its clients], Riccobono and Diamond, Gammerman issued two purported Orders, each dated January 23, 1985. Both of such purported orders were (1) jurisdictionally "out-of-orbit"; (2) jurisdictionally defective; (3) the subject of extrinsic fraud; and (4) non-judicial in nature. Effectively, in totality, they closed the state judicial system to plaintiffs, albeit relief was compelling, as hereinafter set forth.

20. The major justiciable issues in which plaintiffs sought relief, all substantively compelling, were all denied simply because (1) Diamond and/or Gammerman refused to permit them to be made; or (2) they failed to comply with ex post facto enunciated rules; or (3) the papers were physically destroyed or secreted.

To repeat, not a single motion made by plaintiffs, with two notable exceptions hereinafter discussed, were able to run the Diamond-Gammerman gauntlet since March 1984, when the Rashba report filed in federal court revealed the massive larceny that took place after June 4, 1980 with respect to Puccini's judicially entrusted assets.

The major areas of relief judicially sought by plaintiffs within the state judicial system, none of which had any substantive defense, with some examples of the reasons asserted for the denial of same, were as follows:

a. There were numerous motions made to vacate the judgment and order based on the Sinclair decision of October 28, 1982, which was rendered pursuant to the Court's reliance on the K&R perjurious submissions, in conspiratorial cooperation, inter alia, with the Court's agent, Feltman and his law firm, FK&M.

Although these motions also sought the vacatur of Raffe's judgment over as against Puccini, Dann and Sorrentino, they were never supported; indeed, at times, they were vigorously opposed by Feltman, FK&M, and ANBL&K, openly, invidiously, brazenly and corruptly in the state judicial forum; and repetitively denied for ministerial or ad hoc, ex post facto, procedural reasons.

Thus, the first such motion was made on March 26, 1984 [8 days before publication of the Riccobono ukase], properly returnable at Trial Term Part XI on April 11, 1984.

K&R defaulted in opposing. Thereupon, the necessary ex parte arrangements were made with Diamond, and consequently, on May 3, 1985, Hon. Ethel B. Danzig:

"denied [Raffe's motion to vacate] with leave to renew by Order to Show Cause which must be presented to Hon. Thomas V. Sinclair, Jr., pursuant to the direction of Referee Donald Diamond". [emphasis supplied]

Instructively, Diamond had not been given any jurisdiction outside of Special Term Part I! Consequently, in any other part, the sovereignty and independence of the presiding jurist is and must be constitutionally protected. He or she may not be "directed" by any Referee or coordinate jurist (Balogh v. H.R.B. Caterers, 88 A.D.2d 136, 452 N.Y.S.2d 220 [2d Dept.]).

By "phantom", ever changing, ex post facto rules, Diamond was able to deny Raffe [and Puccini, Dann, and Sorrentino], access to the state courts, where an appealable decision "on the merits" must be issued as a matter "of right"; notwithstanding that ten motions were made for such relief.

b. No accounting, final nor interim, nor access to all of Puccini's financial books and records has ever been afforded to anyone not part of the Relkin-Feltman conspiracy, since Puccini was involuntarily dissolved on June 4, 1980.

By statutory law, custom and practice, a final accounting and distribution generally takes place within one year.

This judicial trust, however, now entering its sixth year without any accounting or any inspection of the financial books and records permitted, particularly where there exists documented evidence and confessions of massive dissipation of judicial trust funds, creates a statutory and a constitutional repugnancy.

Nevertheless, Riccobono by granting Diamond exclusive jurisdiction to "hear and determine" (cf. CPLR 4317[b]) has been able to stonewall any and all relief by the contrived expedient of unconstitutionally not permitting the motion to even be made!

Similarly, Gammerman by self-proclamation has not only not permitted such motions to be made, but by a patently invalid directive (85 Civ. 3927 [WCC], Exhibit "A"), mandates that pending motions or those sub judice, and exclusively within the historic jurisdiction of those judges, be dismissed.

By virtue of a directive entered January 24, 1985, Gammerman has terminated special proceedings against Riccobono, sub judice for several months, seeking of an accounting and other relief, although Riccobono's attorney has conceded that never having been served, the aforementioned Gammerman directive is not legally effective as to his office and clients!

The state judicial thrall have imposed penal fines and penalties and threaten incarceration, merely for moving for an accounting or for an inspection of Puccini's financial books and records!

c. Under New York law, as elsewhere, the Rettinger Order of April 6, 1983, is null and void, since without full disclosure, a court may not appoint investigators to investigate their own client, and/or those who previously "laundered" monies to them.

Furthermore, in haec verba, 22 NYCRR §660.24[f], states that such appointment is "null and of no effect", which the attorney for the Justices of SCNY represented to the Appellate Division would presumptively be given obedience, as a ministerial edict, by his judicial clients.

Although every judge and every tribunal has the inherent right, if not duty, to vacate any order or judgment based upon fraud or misrepresentation upon the judge or court (Universal v. Root, 328 U.S. 575; Hazal-Atlas v. Hartford, 322 U.S. 238), and every litigant the right to petition for such relief, under the Gammerman ukase, his permission is now required; which he has arbitrarily refused to grant.

d. Diamond, under the Riccobono ukase, has refused to obey the ministerial directive of the Appellate Division of August 18, 1983 (Barr v. Raffe 96 A.D.2d 800, 466 N.Y.S.2d 340 [1st Dept.]).

In the Order of the Appellate Division, supra, that tribunal directed that within fifteen (15) days after service of a copy of its Order with Notice of Entry [which was done immediately], K&R was to:

"2. Set forth all attorney's fees incurred by plaintiffs thus far, annexing any and all documentation for same, including all time sheets, bills rendered, and all payments received, including dates thereof."

Under the Riccobono ukase, which authorizes Diamond to "hear and determine" all discovery issues, Diamond simply ignores the mandate of the Appellate Division.

When Raffe pays for the reproduction of records which, according to the Appellate Division Order he is supposed to receive free of charge, his suit for breach of contract is dismissed because he has not obtained the permission from Gammerman under the self-proclaimed judicial-dictate of Gammerman.

e. Raffe's request that he be permitted to make a motion prohibiting Feltman and FK&M from taking a position contrary to the legitimate interests of Puccini, the judicial trust, is denied by Diamond.

Raffe's request that he be permitted to make a motion prohibiting ANBL&K from taking a position contrary to the legitimate interests of its clients, Eugene Dann and Robert Sorrentino, is denied by Diamond.

f. Raffe's and Sassower's motion or cross-motion for implementation of the mandatory, non-discretionary, ministerial provisions contained in 22 NYCRR §660.24[f], whose statutory mandate was represented as would be obeyed at the Appellate Division, are solicited by Diamond for transference to himself from other jurists. They subsequently serve as fuel for his paper crematorium.

Thus, by merely destroying or secreting judicial papers, motions and papers which do not suit Diamond's fancy, are non-appealably denied.

g. K&R had defaulted on Raffe's decisive motion of March 27, 1984 [prior to the issuance of the Riccobono ukase], returnable in Trial Term Part XI. Nevertheless, it recruited Diamond to invade such trial part. The obedient subaltern of Riccobono thereafter had the motion referred to himself on April 26, 1984. There it essentially died undetermined. Such motion requested an Order:

"(a) dismissing [Barr and Citibank's] second and third cause of action for commencing and prosecuting a needless action for the purpose of generating 'attorneys' fees'; (b) dismissing [Barr and Citibank's] second and third cause of action completely for intentionally destroying original records and/or failing to keep separate records for expenses attributable to this action; (c) alternatively, estopping [Barr and Citibank] from making any claims contrary to their attorneys express representation to this Court and the Appellate Division, to wit, that their second and third causes of action apply to expenses in this action alone; (d) dismissing, as a matter of law, any claims made by [Barr and Citibank] for any expenses in any other action or proceeding; (e) limiting recovery, if any, by [Barr and Citibank], in their second and third causes of action to such sums that were reasonably necessary to recover on their first cause of action ..."

h. Thus, although the right to move, based upon newly discovered evidence of fraud and misconduct, exists as "of right", (CPLR 5015(a)[3]), and the right to commence an action based upon subsequent events, tortious and contractual, exists as a matter of right, nonetheless, under the Riccobono-Diamond-Gammerman rule, the plaintiffs have been foreclosed from vindicating their rights in the state tribunal, as will hereinafter be shown.

21. For denying plaintiffs access to the states courts, they have sustained compensatory damages, and they demand such damages, as well as punitive damages in the sum of \$5,000,000.

AS AND FOR A THIRD CAUSE OF ACTION ON
BEHALF OF RAFFE, SASSOWER, AND PUCCINI
AGAINST RELKIN, GERSTEIN, WEISSMAN, K&R,
ANBL&K, SCHNEIDER AND FK&M FOR VIOLATION OF
JUDICIARY LAW §487 UNDER COLOR OF LAW.

22. Plaintiffs repeat, reiterate, and reallege each and every paragraph and subparagraph marked "1" through "20" inclusive, with the same force and effect, as though more fully set forth herein, and further allege:

23a. In April 1985, Relkin in open court confessed that it was he who prepared the affidavits of Barr and Citibank, set forth in ¶10a and ¶10b of this complaint.

b. That such affidavits were perjurious and known to Relkin, K&R, ANBL&K, Schneider, and FK&M to be perjurious, and they were submitted and/or resubmitted by Relkin and K&R with intent to deceive SCNY, Raffe, and Puccini, parties to that action, under a collusive agreement with ANBL&K, Schneider, and FK&M.

24a. Feltman, operating under a collusive agreement with K&R, ANBL&K, Schneider, and FK&M proposed the appointment of Rashba & Pokart to Hon. Martin H. Rettinger, without openly disclosing the pre-existing relationships between Rashba & Pokart, K&R, and their clients, and ANBL&K; all with the intent to deceive Raffe and Puccini.

b. Rashba & Pokart having been appointed, Schneider and FK&M, with intent to deceive Raffe and Puccini did not advise Rashba and Pokart of their appointment or the scope of their petitioned assignment for about seven (7) months, under a collusive arrangement with K&R and ANBL&K.

c. In many other ways the aforementioned agreed to deceive Raffe and Puccini, with respect to such appointment, which continues to date.

25a. Relkin and K&R, in an attempt to deceive SCNY and the Appellate Division, First Department, and in addition Raffe, represented that his clients' second and third cause of action was concerned only with action bearing Index No. 16792/1980, when in fact, they intended to include all actions and proceedings related to such action.

b. Relkin and K&R, in collusion with ANBL&K, and thereafter with Schneider and FK&M, had actual knowledge that the indemnification provision in their second and third cause of action, was intended to be a defensive, not offensive, provision, but deceived the SCNY and many of its jurists to believe otherwise.

26. Gerstein and K&R, intending to deceive the Appellate Division and prejudice Sassower and Raffe, falsely certified a "Record on Appeal" of 199 pages, when in fact the "Record on Appeal" should have been less than one-sixth that size, thus precluding Sassower from meeting the issues raised by the improperly expanded record.

27a. ANBL&K and K&R, collusively, with intent to deceive SCNY, Sassower, and Raffe, "switched", "substituted", and "changed" their judicially submitted papers, causing a partial disqualification of Sassower.

b. Thereafter to further deceive SCNY, Sassower, and Raffe, collusively, with intent to deceive, submitted an unauthorized and improper proposed order to be signed.

c. To prevent the true facts from emerging, K&R, Gerstein, ANBL&K, FK&M, and Schneider, by fraud and deceit had Gammerman permanently stay such action.

28. Schneider, FK&M, Relkin, Gerstein, Weissman, K&R, and ANBL&K in a collusive attempt to obstruct justice and perpetrate a fraud upon Raffe and Puccini, ex parte communicated with Riccobono and/or his office which led to the designation of Diamond.

29. Schneider, FK&M, Gerstein, K&R, and ANBL&K, in a collusive attempt to obstruct justice and perpetrate a fraud upon Raffe, Sassower, and Puccini, made various false statements and made ex parte arrangements for the Gammerman execution of the two orders dated January 23, 1985.

30. Weissman, Gerstein, and K&R, with intent to deceive Mr. Justice Charles A. Kuffner, Jr., and Raffe, made various false statements concerning the right of Raffe and counsel to inspect their "time" records.

31a. Relkin, Gerstein, K&R, Schneider, and FK&M in a collusive attempt to prevent an inspection of their records, caused ex parte communications to be made to Hon. Walter M. Schackman virtually "directing" His Honor to deny Raffe's counsel the right to inspect the "time records" of K&R, although they were ordered by the Appellate Division to be given to Raffe on August 18, 1983; virtually "directed" His Honor to quash the subpoenas and subpoenas duces tecum that had been served for that and other purposes; virtually "directed" His Honor to exclude Sassower from the Courtroom, prohibit Sassower and Polur from communicating with each other; and caused His Honor to change his ruling with respect to admission of matters which did not bear Index No. 16792/80 as part of K&R action.

b. In other ways Hon. Walter M. Schackman was ex parte communicated with, and His Honor agreed to permit Gerstein to testify as to material matters which he knew were false and perjurious.

32. Gerstein, Weissman, K&R, Schneider, FK&M, and ANBL&K, operated collusively with Diamond, with the intent to deceive Raffae, Sassower, Polur, Puccini, and Elena Ruth Sassower ["Elena"], from the time of Diamond's appointment to date, in manifold manners, including the concealment of Puccini's financial records and the unlawful dissipation of its trust assets, all without any accounting.

33. All of the aforementioned was under "color of law" or in conspiratorial consort with those who had operated under "color of law".

34. By reason of the foregoing plaintiffs demand triple damages, as provided in Judiciary Law §487, or the sum of \$10,000,000.

AS AND FOR A FOURTH CAUSE OF ACTION
ON BEHALF OF RAFFE AGAINST K&R

35. Plaintiffs repeat, reiterate, and reallege each and every paragraph and subparagraph marked "1" through "13" inclusive, and paragraph "16d" with the same force and effect, as though more fully set forth herein, and further allege:

36. Although Raffe was to receive copies of the documents set forth in paragraph "16d" by the early part of September 1983 free of charge, by December 1984, with the manipulative practices of the defendants, especially that of Diamond, who refused to obey the mandatory directives of the Appellate Division, Raffe paid and K&R accepted the sum of \$200 for copies of such records.

37. When K&R refused to perform, as contractually agreed, Raffe commenced a legal action against it for breach of contract in the state court.

38. In conspiratorial consort with Gammerman and Riccobono, acting "under color of law", such action was permanently stayed by K&R, leaving Raffe without a remedy.

39. Such stay was secured by ex parte arrangements made with Gammerman by K&R and FK&M.

40. As a result of such breach of contract, Raffe has been damaged to the extent of \$550,000.

AS AND FOR A FIFTH CAUSE OF ACTION
ON BEHALF OF ALL PLAINTIFFS, AGAINST
ALL DEFENDANTS.

41. Plaintiffs repeat, reiterate, and reallege each and every paragraph and subparagraph marked "1" through "39" inclusive, with the same force and effect, as though more fully set forth herein, and further allege:

42. For seeking relief against Riccobono, particularly in the federal forum, the defendants have subjected plaintiffs to a cascading reign of terror by means of a panoply of tortious and unconstitutional conduct, including:

43a. Abuse of process -- Heretofore the defendant, FK&M recovered a judgment against Raffe in the sum of \$5,575.00; and the defendant, K&R recovered a judgment against Raffe in the sum of \$9,337.77.

b. Purportedly pursuant thereto, these named defendants restrained more than twice the amount due under color of state law contrary to constitutional and statutory mandate (Lugar v. Edmondson, 457 U.S. 922; Warren v. Delaney, 98 A.D.2d 799, 469 N.Y.S.2d 975 [2d Dept.]), interfering with Raffe's property rights without due process of law.

c. In addition thereto, in order to harass, embarrass, and deprive Raffe of counsel, these defendants, operating in consort, caused to be served upon Polur, Raffe's attorney; Raffe's wife; Raffe's accountants; and American Express "Witness Subpoena Duces Tecum" and "Information Subpoenas", and other legal process.

d. Polur, did in fact, appear at their office at the designated hour, ready to submit to such void process, calculated to intimidate rather than enlighten, but Schneider and FK&M refused to take his demanded examination. Instead, the defendants unilaterally adjourned same for another unspecified date, causing Polur and Raffe to expend time and monies as a result thereof.

e. Furthermore, K&R, although fully secured by a sum in excess of twice its judgment, also harassed Raffe by demanding that he make court appearances, disclosed personal information, and in other ways deprived him of procedural and substantive due process.

44a. Malicious Prosecution -- FK&M and Schneider, acting in conspiratorial concert with Gerstein, Weissman, K&R, and ANBL&K, in order to conceal their own personal misconduct in the Puccini matter, and Puccini related litigation, commenced a criminal contempt proceeding to be initiated against Raffe and Sassower in November of 1982, without reasonable grounds therefore.

b. Although FK&M and Schneider purported to act on behalf of Puccini, the judicial trust, they were not authorized to act on its behalf (22 NYCRR §660.24[f]).

c. Although the actions asserted against Raffe and Sassower inured to the benefit of Puccini, the judicial trust, Schneider and FK&M, operating under color of law, financed such prosecution from court entrusted funds.

d. Both Raffe and Sassower were vindicated of any and all charges made by Schneider and FK&M in an Order filed on January 4, 1985.

45a. Although vindicated of such criminal contempt charges, FK&M, Schneider, K&R, and Gerstein, have lodged many other criminal contempt charges against Raffe, Sassower, and Polur, in different courts, before different judges. These purported charges were generally duplicative, and indeed were the precise charge in several instances.

b. Instructively, in most instances, these plaintiffs have not been adjudicated guilty, and where there is a contrary decision, it is without first being afforded a trial or hearing, although the proceedings do not even pretend to be summary in nature.

c. These sham and void proceedings are intended to intimidate and harass these plaintiffs and subject them to caluminous attacks. They are calculated legal assault for purpose of intimidation.

46a. In a concerted effort to deprive plaintiffs of their constitutional and federal, as well as state rights, Sassower and Polur have been put under surveillance by the "direction" of defendant Schackman.

b. Schackman has "directed" adversary counsel and court personnel to "spy" on them and "immediately report" to His Honor any perceived violation of his commandment they not "conspire" together with respect to the legal issues tried before him.

c. Schackman and Diamond have excluded Sassower from their respective courtrooms during public judicial proceedings, without any known legal or legitimate reason; "Elena" has been barred from Diamond's courtroom; Raffe and Sassower have been restrained from communicating with the grievance or other professional disciplinary organization with respect to the persons involved in the Puccini litigation; Sassower was escorted from the entire building at 60 Center Street because he informed Diamond he believed it his duty to advise Raffe of his 5th Amendment rights; and Sassower and Polur have been made the subject of threats and intimidating remarks by some of the defendants or members of their office.

47. Diamond, albeit disqualified by virtue of statute and constitutionally, has abused his office under color of law to continually defame Sassower; spread malicious untruths about the plaintiffs, in and out of his courtroom; has become a manipulator and fixer among other jurists of SCNY; solicits matters that are sub judice for himself and then destroys the legal papers involved or merely makes no determination regarding same; sua sponte imposes fines and penalties upon Sassower and Raffe; imposes sua sponte a fine on Raffe in order to disparage Polur and deprive Raffe of counsel; purports to make determinations, which have no jurisdictional basis in order to defame; employs his courtroom as a place to deprive Raffe of his basic constitutional rights; makes insulting, "out of office" defamatory remarks to Raffe's secretary, Sassower's daughter, and others; and causes the publication of defamatory matters concerning Sassower, which are not germane in any respect to the issues presented or before him.

48. Schneider, FK&M, and Diamond publish and cause to be published confidential complaints they have made to the Grievance Committee; falsely assert "instructions" of said Committee; overtly and publicly solicit further and duplicative complaints in order to increase the pressure on the Grievance Committee for prosecution; and then by ex parte corruption, permanently enjoin legal proceedings brought by Sassower because of such violation of common law and statutory rights.

49. Cook to whom confidential information was given by Sassower and Raffe in January 1983, and continually thereafter by them and others, has been solicited as counsel for those against whom he was given such confidential information or against whom he, as part of his office, has confidential information about, including Riccobono, Diamond, and Saxe; he has now been commandeered to represent them in their adversary position with Puccini.

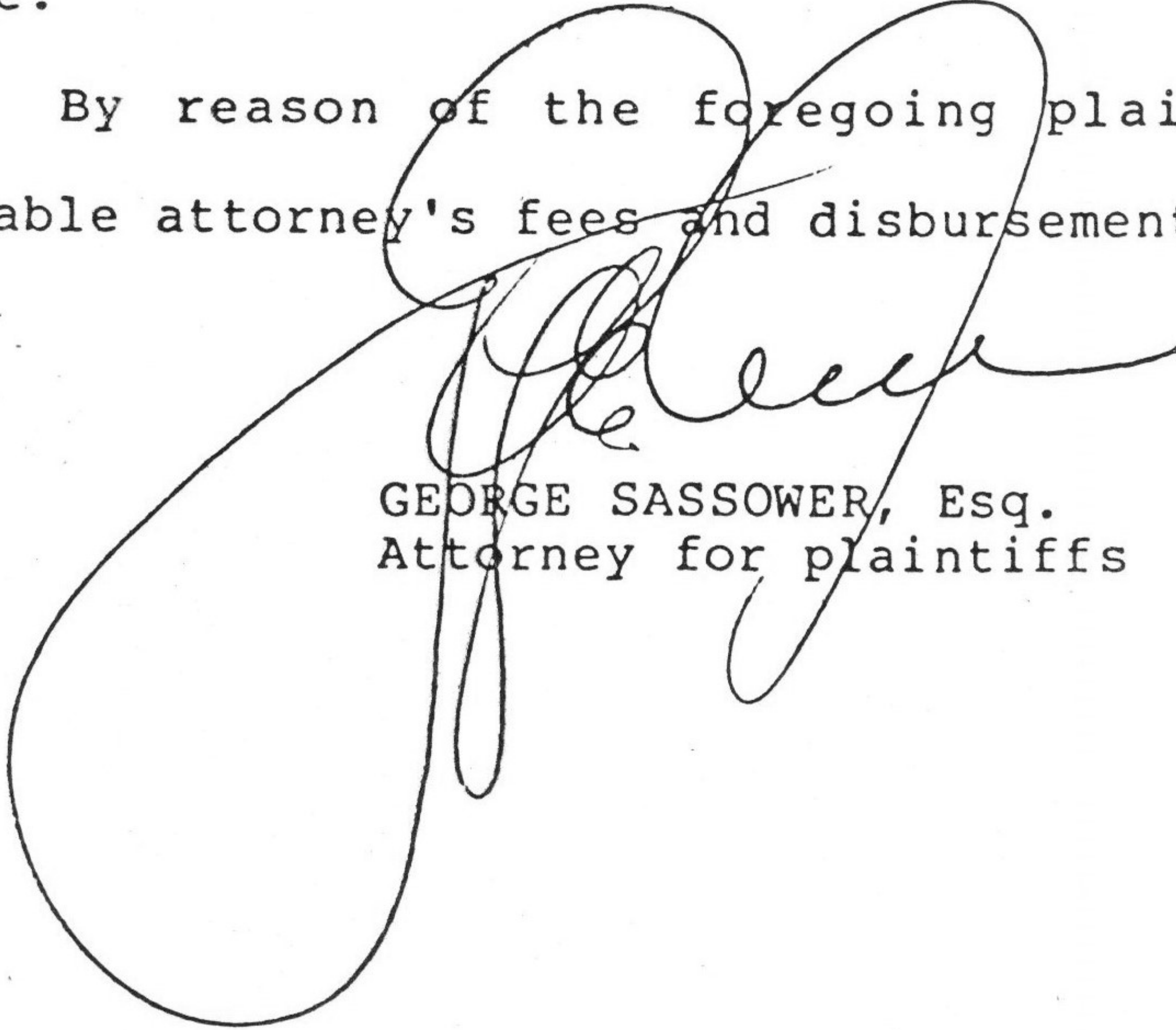
50. Primarily, by virtue of his representation of Riccobono, Diamond, and other members of the SCNY, Cook has failed to compel the filing of the mandatory accounting for the period of June 4, 1980 to February 1, 1982, or to take other required action on behalf of Puccini.

51. By reason of the foregoing the plaintiffs demand damages, compensatory and punitive, against the defendants in the sum of \$5,000,000.

AS AND FOR A SIXTH CAUSE OF ACTION
ON BEHALF OF ALL PLAINTIFFS AGAINST
ALL DEFENDANTS.

52. Plaintiffs repeat, reiterate, and reallege each and every paragraph and subparagraph marked "1" through "50" inclusive, with the same force and effect, as though more fully set forth herein, and further allege:

53. By reason of the foregoing plaintiffs demand reasonable attorney's fees and disbursements.



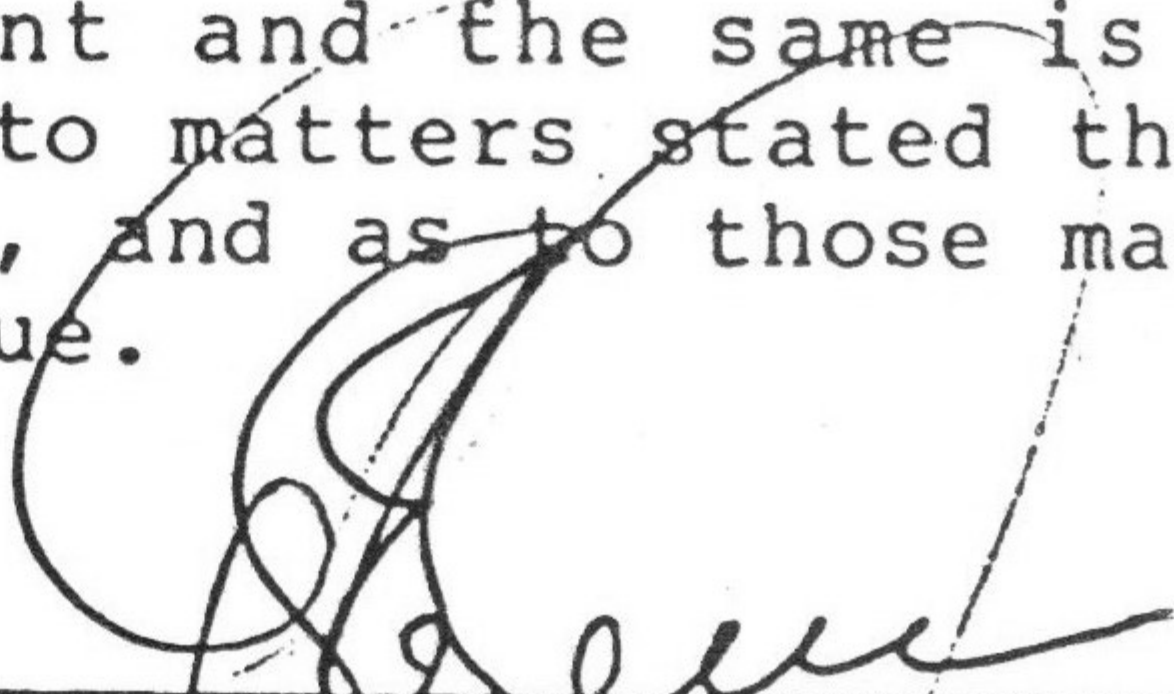
GEORGE SASSOWER, Esq.
Attorney for plaintiffs

STATE OF NEW YORK
CITY OF NEW YORK
COUNTY OF KINGS

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) ss.:
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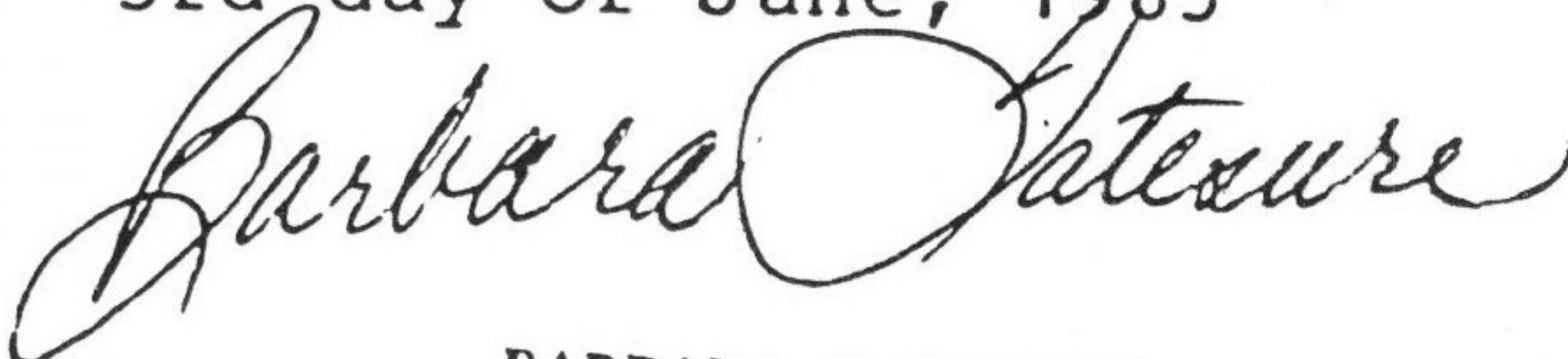
GEORGE SASSOWER, Esq., first being duly sworn, deposes, and says:

I am one of the plaintiffs herein and have read the foregoing complaint and the same is true of my own knowledge except as to matters stated therein to be on information and belief, and as to those matters deponent believes them to be true.



GEORGE SASSOWER

Sworn to before me this
3rd day of June, 1985



BARBARA TATURES
Notary Public State of New York
No. 24-4760746
Qualified in Kings County
Commission Expires March 30, 1986