

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION : FIRST DEPARTMENT

-----x

In the Matter of the  
Application of

HYMAN RAFFE,

Petitioner,

-against-

THE JUSTICES OF THE SUPREME COURT, NEW YORK  
COUNTY, HON. THOMAS V. SINCLAIR, JR. and  
HON. ETHEL B. DANZIG,

Respondents.

For a Writ of Mandamus, Pursuant to Article  
78 of the Civil Practice Law and Rules.

-----x

S I R S:

PLEASE TAKE NOTICE that upon the annexed  
petitioner of HYMAN RAFFE, dated and duly sworn to on  
the 12th day of June, 1984, and upon all pleadings and  
proceedings had herein, the undersigned will move this  
Court at a Stated Term before of the Appellate Division  
of the Supreme Court of the State of New York, First  
Judicial Department, held at the Courthouse thereof,  
25th Street and Madison Avenue, in the Borough of  
Manhattan, City and State of New York, on the <sup>16<sup>th</sup></sup> ~~9<sup>th</sup>~~ day of  
July, 1984 at 9:30 o'clock in the forenoon of that day

84 JUN 25 PM 4:00

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or as soon thereafter as Counsel may be heard for an Order direction respondents to issue Orders regarding two (2) motions both made returnable on April 11, 1984, together with any other, further, and or different relief as to this Court may seem just and proper in the premises.

PLEASE TAKE FURTHER NOTICE, that a verified answer and opposing papers, if any, are to be served upon the undersigned at least five days before the return date of this motion with an additional five days if such service is by mail.

Dated: June 12, 1984

Yours, etc.

HYMAN RAFFE  
Attorney for applicant  
pro se  
2125 Mill Avenue,  
Brooklyn, New York, 11234  
212-444-3400

To: Hon. Thomas V. Sinclair, Jr.  
Hon. Ethel B. Danzig  
Hon. Robert Abrams  
Hon. Donald Diamond  
Feltman, Karesh & Major, Esqs.  
Kreindler & Relkin, P.C.  
Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C.

SUPREME COURT OF THE STATE OF NEW YORK  
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For a Writ of Mandamus, Pursuant to Article  
78 of the Civil Practice Law and Rules.

-----x  
TO THE HONORABLE JUSTICES OF THE SUPREME COURT:  
APPELLATE DIVISION: FIRST JUDICIAL DEPARTMENT

Petitioner, HYMAN RAFFE, as and for his  
petition, respectfully sets forth and alleges:

1. Respondents are Acting Supreme Court Justices  
of the County of New York.

2a. Based upon an accounting report filed in  
Federal Court dated March 5, 1984, clearly revealing the  
larceny and perjury of the Kreindler & Relkin, P.C.  
entourage, regarding Puccini Clothes, Ltd., petitioner  
promptly moved to set aside a Judgment dated February 4,  
1983 and the underlying Order and Decision.

b. The Notice of Motion was dated March 26, 1984 and returnable on April 11, 1984, in Trial Term Part 11 (Exhibit "A"), presided over by Hon. ETHEL B. DANZIG.

c. The aforementioned original motion was made "of right", nevertheless Her Honor desired that permission for its making be received from Hon. THOMAS V. SINCLAIR, JR., whose Order and Decision would be affected thereby.

d. Hon. THOMAS V. SINCLAIR, JR., has refused such permission on a motion made "of right" apparently because the motion is sub judice with Hon. ETHEL B. DANZIG (Exhibit "B").

e. Petitioner understands he nevertheless may make such motion, returnable in Special Term Part I, but Hon. DONALD DIAMOND has directed, pursuant to an Order of Hon. XAVIER C. RICCOBONO, that all motions be made before him, and made only after permission is granted. On this motion, Hon. DONALD DIAMOND desires that such permission be given by Hon. THOMAS V. SINCLAIR, JR., thus it has become a circle without an end -- a "judicial catch-22".

f. More than sixty (60) days have expired since its return date and petitioner desires an Order from someone, so that he may pursue an appeal, if so advised.

3a. On March 27, 1984, petitioner moved for an Order, inter alia, imposing sanction for the failure of Kreindler & Relkin, P.C., to comply with the Order of this Court (Barr v. Raffe, 96 A.D.2d 800, 466 N.Y.S.2d 340 [1st Dept.]). This motion was also returnable on April 11, 1984 at Trial Term Part 11 (Exhibit "C").

Pre-trial procedures, pursuant to the Order of this Court should have been completed by September 25, 1983 -- nine (9) months ago! The Order has not been complied with in any meaningful respect, letter or spirit, by Kreindler & Relkin, P.C. or their clients!

b. After some delay, it was referred to Hon. DONALD DIAMOND to "hear and report" and "hear and determine", pursuant to the Order of Hon. XAVIER C. RICCOBONO.

c. It is now being delayed by the dilatory tactics of Kreindler & Relkin, P.C., who on one hand presses for a trial and on the other hand has consistently avoided pre-trial disclosure.

d. Petitioner's fear is that in the confusion that exists, that he may be forced to trial, without the pre-trial disclosure directed by this Court.

e. Here again, more than sixty (60) days has expired since the return date of this motion.

4a. Nothing in this application is intended to reflect adversely upon any judicial member.

b. The problem is the individual rules of the several jurists involved (see David v. David, 74 A.D.2d 542, 543, 424 N.Y.S.2d 916, 918 [1st Dept.]), which in this matter, are uncoordinated, and just do not properly operate, to petitioner's prejudice.

c. Petitioner sincerely believes that only the making of this application can free the aforementioned motions from a judicial quagmire, and that it will be mooted expeditiously by the involved parties prior to the return date of this application.

WHEREFORE, it is respectfully prayed that this petition be granted in all respects.

Respectfully,

  
HYMAN RAFFE

HYMAN RAFFE  
Attorney for petitioner - pro se  
2125 Mill Avenue,  
Brooklyn, New York, 11234  
(212) 444-3400

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


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

I am the petitioner herein and have read the  
foregoing petition.

The same is true of my own knowledge except as  
to matters stated on information and belief and as to  
those matters he believes same to be true.

  
\_\_\_\_\_  
HYMAN RAFFE

Sworn to before me this  
12th day of June, 1984



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

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

JEROME H. BARR and CITIBANK, N.A., as  
Executors of the Will of Milton Kaufman

Plaintiffs,

-against-

HYMAN RAFFE,

Defendants.

Index #  
16792/1980

Cal. No.  
56943

Refer to  
Hon.  
Thomas V.  
Sinclair,  
Jr.

HYMAN RAFFE,

Third Party Plaintiff,

-against-

PUCCINI CLOTHES, LTD., EUGENE DANN, and  
ROBERT SORRENTINO,

Third Party Defendants.

S I R S:

PLEASE TAKE NOTICE that upon the annexed  
affidavit of HYMAN RAFFE, duly sworn to on the 26th day  
of March, 1984, and upon all pleadings and proceedings  
had herein, the undersigned will move this Court at a



Trial Term Part 11 of the Supreme Court of the State of New York, County of New York, held at the Courthouse thereof, 60 Center Street, in the Borough of Manhattan, City and State of New York, on the 11th day of April, 1984, at 9:30 o'clock in the forenoon of that day or as soon thereafter as defendant can be heard for an Order (a) to vacate the Judgment dated February 4, 1983; a modification of the Order of January 4, 1983; a modification of the Decision of October 28, 1982, all pursuant to CPLR 5015(a)[2][3] and the inherent power of the Court; (b) restitution, pursuant to CPLR 5015(d); (c) together with any other, further, and or different relief as to this Court may seem just and proper in the premises, including a hearing pursuant to CPLR §2218.

PLEASE TAKE FURTHER NOTICE, that opposing papers, if any, are to be served upon the undersigned at least five days before the return date of this motion with an additional five days if such service is by mail.

PLEASE TAKE FURTHER NOTICE, that within the same time limitations, documents demanded in the annexed affidavit are to be served and filed, pursuant to CPLR 2214(c).

Dated: March 26, 1984

Yours, etc.

HYMAN RAFFE  
Attorney for Third Party  
Plaintiff-pro se  
2125 Mill Avenue,  
Brooklyn, New York, 11234  
212-444-3400

To: Kreindler & Relkin, P.C.  
Feltman, Karesch, & Major, Esqs.  
Arutt, Nachamie, Benjamin, Lipkin, & Kirschner, P.C.

To: Clerk of Special Term Part II

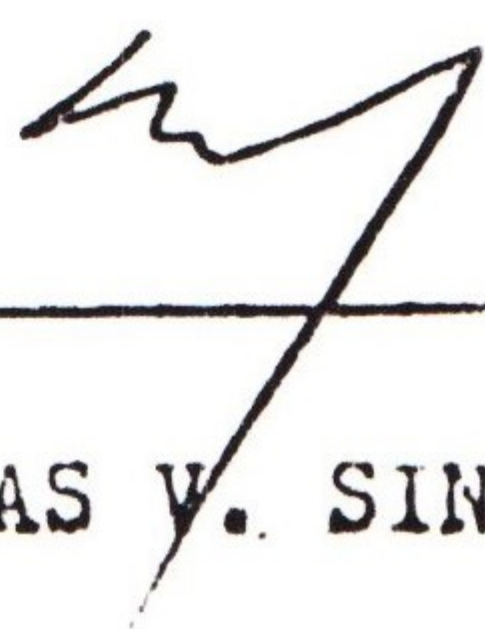
Date: May 31, 1984

From: Thomas V. Sinclair, Jr., J.S.C.

Re: Attached

At this stage of the proceedings, the granting of this application would amount to an improvident exercise of discretion by this Court.

Accordingly, this Court declines to entertain this application; especially in light of the motion for identical relief which was submitted on April 11, 1984 which is presently sub judice; and the Administrative Order of Mr. Justice Xavier C. Riccobono of March 26, 1984.



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THOMAS V. SINCLAIR, JR.

Exhibit "B"

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----x  
JEROME H. BARR and CITIBANK, N.A., as  
Executors of the Will of Milton Kaufman

Index #  
16792/1980

Plaintiffs,

Cal. No.  
56943

-against-

HYMAN RAFFE,

Defendant.

-----x  
HYMAN RAFFE,

Third Party Plaintiff,

-against-

PUCCINI CLOTHES, LTD., EUGENE DANN, and  
ROBERT SORRENTINO,

Third Party Defendants.  
-----x

S I R S:

PLEASE TAKE NOTICE that upon the annexed  
affidavit of HYMAN RAFFE, duly sworn to on the 27th day  
of March, 1984, and upon all pleadings and proceedings  
had herein, the undersigned will move this Court at a  
Trial Term Part 11 of the Supreme Court of the State of  
New York, County of New York, held at the Courthouse

thereof, 60 Center Street, in the Borough of Manhattan, City and State of New York, on the 11th day of April, 1984, at 9:30 o'clock in the forenoon of that day or as soon thereafter as defendant can be heard for for an Order (a) dismissing plaintiffs' second and third causes of action for commencing and prosecuting a needless action for the purpose of generating "attorneys' fees"; (b) dismissing plaintiff's second and third causes of action completely for intentionally destroying original records and/or failing to keep separate records for expenses attributable to this action; (c) alternatively, estopping plaintiffs 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 applies to expenses in this action alone; (d) dismissing, as a matter of law, any claims made by plaintiffs for any expenses in any other action or proceeding; (e) limiting recovery, if any, by plaintiffs, in their second and third causes of action to such sums that were reasonably necessary to recover on their first cause of action; (f) directing plaintiffs to answer the defendant's interrogatories, as Ordered by

the Appellate Division (Barr v. Raffé, 96 A.D.2d 800, 466 N.Y.S.2d 340 [1st Dept.]), in such a manner and to clearly set forth those expenses and claims which are attributable to this action alone; (g) compelling plaintiffs to produce original records; and (h) overruling their objections at the examination before trial held on January 25, 1984; (i) together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.

PLEASE TAKE FURTHER NOTICE, that opposing papers, if any, are to be served upon the undersigned at least five days before the return date of ~~th~~is motion with an additional five days if such service is by mail.

Dated: March 27, 1984

Yours, etc.

HYMAN RAFFE  
Attorney for Third Party  
Plaintiff-pro se  
2125 Mill Avenue,  
Brooklyn, New York, 11234  
212-444-3400

To: Kreindler & Relkin, P.C.  
Feltman, Karesch, & Major, Esqs.  
Arutt, Nachamie, Benjamin, Lipkin, & Kirschner, P.C.

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

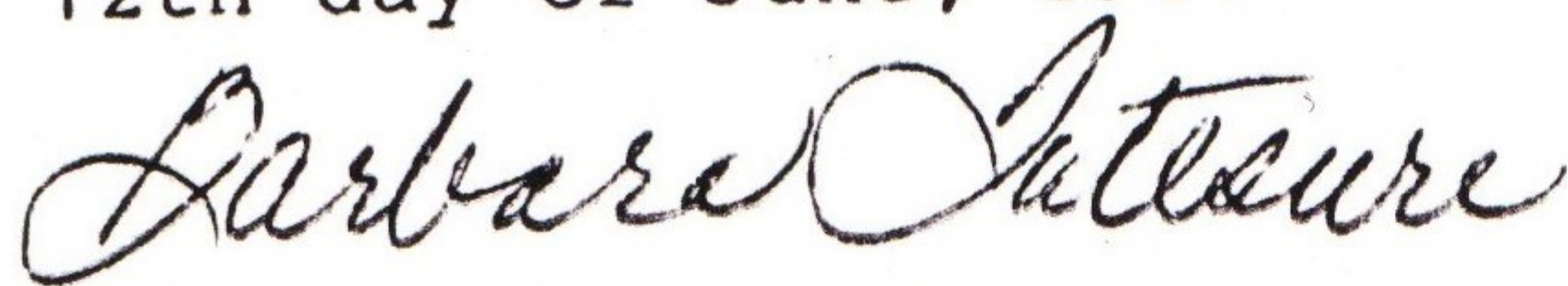
CHARLES RAFFE, first being duly sworn,  
deposes, and says:

I am over the age of 21, reside at 257 Church Street, New York, New York, 10013, and not a party to this action.

That on the 12th day of June, 1984, I served the within Notice of Petition and Petition, by enclosing a true copy thereof in a sealed envelope with sufficient postage in a mail box in the State of New York, addressed to Hon. Thomas V. Sinclair, Jr.; Hon. Ethel B. Danzig; Hon. Robert Abrams; Kreindler & Relkin, P.C.; Feltman, Karesh & Major, Esqs.; and Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C., at his last known addresses.

  
CHARLES RAFFE

Sworn to before me this  
12th day of June, 1984



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