

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

-----X

In the Matter of the Application of
HYMAN RAFFE, individually and on
behalf of PUCCINI CLOTHES, LTD.,

Petitioner,

-against-

Hon. DONALD DIAMOND and Hon. XAVIER
C. RICCOBONO

Respondents.

Pursuant to Article 78 of the CPLR.

-----X

S I R S:

PLEASE TAKE NOTICE that upon the annexed
petition of HYMAN RAFFE, dated the 24th day of
September, 1984, the undersigned will move this Court at
a Stated Term of the Supreme Court of the State of New
York, Appellate Division, First Department, held at the
Courthouse thereof, 25th Street and Madison Avenue, in
the Borough of Manhattan, City and State of New York, on
the day of October, 1984, at 9:30 o'clock in the
forenoon of that day or as soon thereafter as petitioner
can be heard for an compelling respondents to disqualify
themselves from all judicial and quasi-judicial duties
with respect to Puccini Clothes, Ltd., together with any
other, further, and/or different relief as to this Court
may seem just and proper in the premises.

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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.

Dated: September 24, 1984

Yours, etc.

GEORGE SASSOWER, Esq.
Attorney for petitioner
2125 Mill Avenue,
Brooklyn, New York, 11234
212-444-3403

To: Hon. Xavier C. Riccobono
Hon. Donald Diamond
Hon. Robert Abrams
Att: David S. Cook, Esq.
Lee Feltman, Esq.
Kreindler & Relkin, P.C.
Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C.

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

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HYMAN RAFFE, individually and on
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Pursuant to Article 78 of the CPLR.

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TO THE HONORABLE JUSTICES OF THE SUPREME COURT
OF THE STATE OF NEW YORK : APPELLATE DIVISION :
FIRST JUDICIAL DEPARTMENT.

The Petitioner, HYMAN RAFFE, individually
and on behalf of PUCCINI CLOTHES, LTD. respectfully
shows and alleges:

1. This petition seeks to mandate the
recusal of respondents from any and all judicial or
quasi-judicial duties in the underlying litigation.

2a. There is pending litigation between petitioner and the respondents in this Court, nisi prius, and the federal court, where some of the complaints against respondents are on file.

b. Other complaints are well known to respondents and/or their attorney.

c. Nevertheless, the respondents have failed to disqualify themselves, and instead, the Hon. DONALD DIAMOND has taken jurisdiction to be the fact-finder in a proceeding which makes serious charges against him personally.

3. It is petitioner's position that the respondents cannot be simultaneously a litigant and a judge in the same underlying transaction.

4a. Petitioner has attempted to have respondents recuse themselves voluntarily, but without success.

b. If they refuse to recuse themselves as a result of this petition, then if they wish, petitioner will set forth their conduct herein which mandate such disqualification.

Petitioner hopes that will be unnecessary.

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

Dated: September 24, 1984



HYMAN RAFFE

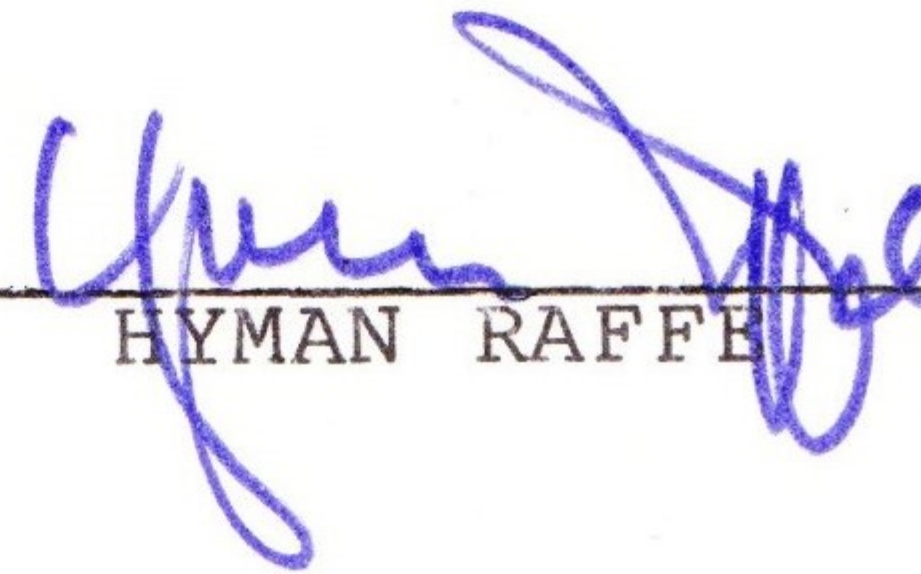
GEORGE SASSOWER, Esq.
Attorney for petitioner
2125 Mill Avenue,
Brooklyn, New York, 11234
(212) 444-3403

STATE OF NEW YORK
CITY OF NEW YORK
COUNTY OF KINGS

)
) ss.:
)

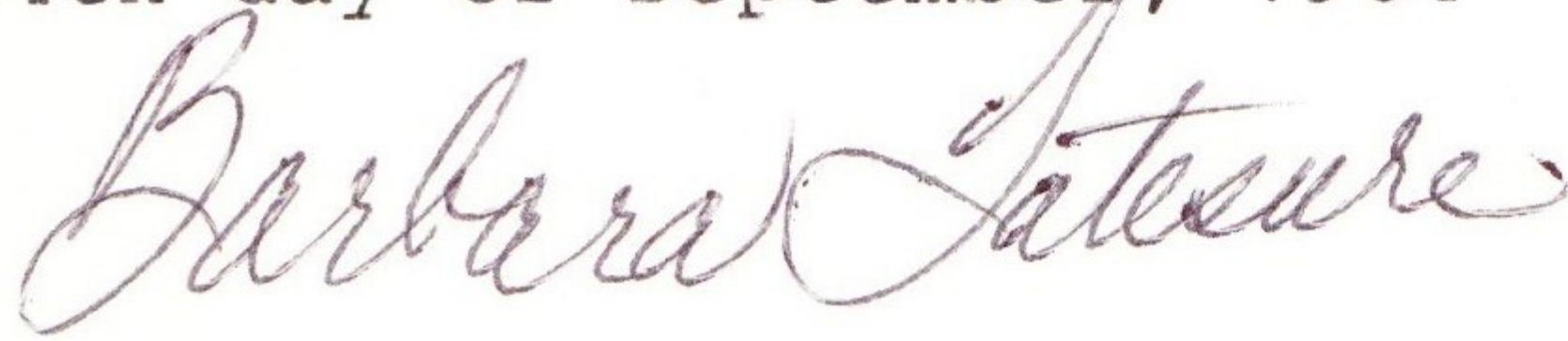
HYMAN RAFFE, first being duly sworn, depose,
and say:

He is the petitioner herein and has read the
foregoing complaint and the same is true of his own
knowledge except as to matters stated therein to be on
information and belief, and as to those matters deponent
believe same to be true.



HYMAN RAFFE

Sworn to before me this
24th day of September, 1984



BARBARA LATSURE
Notary Public State of New York
No. 24-4760746
Qualified in Kings County
Commission Expires March 30, 1986 *86*

APPELLATE DIVISION : FIRST DEPARTMENT

HYMAN RAFFE, etc.

Petitioner,

-against-

Hon. XAVIER C. RICCOBONO et et.,

Respondents.

Notice of Petition and Petition

GEORGE SASSOWER
petitioner

Attorney for

Office and Post Office Address, Telephone

2125 MILL AVENUE

BROOKLYN, NEW YORK 11234

212-444-3400

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated,

Attorney(s) for

Sir:—Please take notice

NOTICE OF ENTRY

that the within is a (certified) true copy of a
duly entered in the office of the clerk of the within named court on

19

NOTICE OF SETTLEMENT

that an order
settlement to the HON.
of the within named court, at
on

of which the within is a true copy will be presented for
one of the judges

Dated,

Yours, etc.

To

Attorney(s) for

GEORGE SASSOWER

Attorney for

Office and Post Office Address

2125 MILL AVENUE

BROOKLYN, NEW YORK 11234

DEPT. OF LAW
STATE OF N.Y.
M.
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