

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

-----x
GEORGE SASSOWER, Esq.,

Petitioner,

-against-

APPELLATE DIVISION OF THE SUPREME
COURT OF THE STATE OF NEW YORK, FIRST
JUDICIAL DEPARTMENT,

Respondent.

10-1-85
6
3
Dismissing the Contempt Proceeding
Under Respondent's Orders date
May 21, 1985, and/or Mandating
Compliance with its directions, as
modified, and other relief.

-----x
S I R:

PLEASE TAKE NOTICE that upon the annexed
petition of GEORGE SASSOWER, Esq., dated August 23,
1985, and all proceedings had herein, the undersigned
will move this Court at a Stated Term of the Appellate
Division of the Supreme Court, Third Judicial
Department, held at the Courthouse thereof, Justice
Building, South Mall, in the City of Albany, on the 30th
day of September, 1985, at 9:30 o'clock in the forenoon
of that day, or as soon thereafter as the undersigned
can be heard, for an Order (a) dismissing the contempt
proceedings of the Respondent under Orders dated May 21,
1985, for failure to afford him a "speedy trial"; and/or

(b) mandating responding to set forth whether the aforementioned contempt proceedings are "criminal" or "civil"; and/or (c) compelling compliance with Brady v. Maryland (373 U.S. 83) and Polo Fashions v. Stock Buyers (760 F.2d 698 [6th Cir.]); and/or (d) designation of a constitutional forum for such hearings; and/or (e) specifications of the "orders" claimed to have been violated and the manner that it is claimed violations occurred; (f) 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 answering papers, if any, are to be served upon the undersigned at least seven (7) days before the return date of this motion, with an additional five (5) days if service is by mail.

Dated: August 23, 1985

Yours, etc.

GEORGE SASSOWER, Esq.
Attorney for petitioner-pro se
2125 Mill Avenue,
Brooklyn, New York, 11234
718-444-3403

To: Appellate Division, First Dept.
Hon. Leonard H. Sandler, Justice Presiding
Hon. Robert Abrams
Kreindler & Relkin, P.C.
Lee Feltman, Esq.
Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C.

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

-----X
GEORGE SASSOWER, Esq.,

Petitioner,

-against-

APPELLATE DIVISION OF THE SUPREME
COURT OF THE STATE OF NEW YORK, FIRST
JUDICIAL DEPARTMENT,

Respondent.

Dismissing the Contempt Proceeding of
Under Respondent's Orders dated
May 21, 1985, and/or Mandating
Compliance with its directions, as
modified and other relief.

-----X
TO THE HONORABLE JUSTICES OF THE SUPREME COURT
OF THE STATE OF NEW YORK, THIRD JUDICIAL DEPT.

The petitioner GEORGE SASSOWER, Esq.,
respectfully sets forth and alleges:

1a. More than three months ago, on May 21,
1985, the respondent, Appellate Division, First
Department, pursuant to contempt and dismissal motions
brought by the firms of Kreindler & Relkin, P.C. ["K&R"]
and Feltman, Karesh & Major, Esqs. ["FK&M"], entered two
Orders (Exhibits "A" and "B"), containing the following
exactly same dispositions:

"It is ordered that
determination of the motion be and the same
hereby is held in abeyance, hearing and
determination of the aforesaid appeals are
hereby adjourned until the further order of

this court, and the issue as to whether George Sassower, Esq., is in violation of any outstanding order of this or any other Court is referred to the Office of the Special Referee of the Supreme Court, New York County, 60 Center Street, New York, New York, Room 308M, for said purpose."

b. Since such time nothing more has been done, as far as petitioner knows, to effectuate such ministerially mandated hearings.

As previous petitions have shown if Referee Donald Diamond is not in agreement with the Appellate Division, First Department, even when ministerially mandated, he charts own course!

Indeed, Referee Donald Diamond does not even concern himself with constitutional mandates!

2a. In form and substance, the proceedings are defective whether they be considered criminal or civil contempt proceedings.

b. If the proceedings be deemed criminal contempt, as seems to have been the manifest intention of the movants, Kreindler & Relkin, P.C. ["K&R] and Feltman, Karesh & Major, Esqs. ["FK&M"], the same should be dismissed for the failure to afford the petitioner his constitutional and statutory right to a "speedy trial".

c. Although the crime of criminal contempt was originally conceived as an inherent power of the court, it is settled law that such power may be regulated by the legislature (Michaelson v. United States, 266 U.S. 42, 65-67), the executive may pardon (Ex parte Grossman, 267 U.S. 87), and in every fundamental respect the judicial proceedings must conform to criminal procedures insofar as they were intended to protect the accused (Gompers v. United States, 233 U.S. 604).

d. In Bloom v. Illinois (391 U.S. 194), the Court mandated obedience by the states, in non-summary criminal contempt proceedings, the fundamental criminal rights due the accused.

e. In law or logic, there can be no reason for not placing within the ambit of petitioner's constitutional and statutory rights his right to a "speedy trial", particularly where, as here, prejudice has and is resulting.

In fact, Mr. Justice Holmes, speaking for the Court in Gompers v. United States (supra), which involved criminal contempt, stated (at p. 612):

"Indeed the punishment of the offenses peculiarly needs to be speedy if it is to occur."

The fact that in criminal contempt proceedings, the accusation is not by indictment or information should not be of any legal moment. There was a time when the accusation took the form of an oral challenge before a community council; there was a time when the accusation was by a demand that a compurgation oath be taken; and when the challenge was by ordeal.

However the criminal proceeding is instituted, the accused should have the right to a speedy trial!

3a. It must be noted, that at substantially the same time, K&R and FK&M commenced these proceedings in the Appellate Division, completely ignoring constitutional and statutory prohibitions against "double jeopardy", they commenced similar criminal contempt proceedings at nisi prius.

b. Thus, while the matters were set down for a hearing by the respondent against your petitioner, and by a general verdict dismissed against Hyman Raffe, nisi prius, without any trial or other fundamental right, convicted both petitioner and Hyman Raffe for criminal contempt and entered orders for their incarceration.

e. Nothing in this petition should be construed as a waiver of pending prohibition proceeding against Hon. Alvin F. Klein and Hon. David B. Saxe pending in the Appellate Division, First Department based on "double jeopardy", which that Court set down as a return date September 10, 1985, or indeed any other action or proceeding.

4a. In the event the proceedings resulting in the Orders dated May 21, 1985 are not dismissed, then petitioner requests that K&R, FK&M, and the law firm of Arutt, Nachamie, Benjamin, Lipkin & Kirschner, P.C. ["ANBL&K"], and its successor firm (who supported the aforementioned motions) deliver any and all Brady v. Maryland (373 U.S. 83) material, and otherwise that this Court insure petitioner that his criminal rights are protected.

b. Furthermore, compliance with the opinion in Polo Fashions v. Stock Buyers (760 F.2d 698 [6th Cir.]) is hereby demanded. The dictum contained in the 1935 opinion of McCann v. New York Stock Exchange (80 F.2d 211 [2nd Cir.], cert den 299 U.S. 603), can no longer be legally reconciled with the conduct expected of a public or independent prosecutor.

5a. The manifest purpose of the underlying motions by K&R and FK&M was to prevent the Appellate Division, First Department from viewing further evidence of their misconduct and that of their clients.

b. Since such ordered hearings would further expose, rather than conceal, the egregious conduct that has taken place in these matters by the firms of K&R and FK&M, they have not been pressed such hearings forward.

c. The very titles of these orders suggest that these motions by K&R and FK&M were targetted at preventing review of the corruptly secured Orders of Hon. Ira Gammerman.

d. Thus if the aforementioned Orders of the respondent are construed as a civil contempt proceedings, the absurd situation would prevail that petitioner will be, by a civil contempt proceeding, accused of violating orders which petitioner claims to be null and void. If petitioner prevails in his contention that such orders are a nullity, then ipso fact any civil contempt proceeding must be dismissed (Shillitani v: United States, 384 U.S. 364).

6a. In addition to the aforementioned or alternatively, petitioner is entitled to the specifics of the orders claimed to have been violated.

b. The aforementioned Orders of the respondent, which once again vindicated Hyman Raffe, directed hearings to determine:

"the issue as to whether [petitioner] George Sassower, Esq., is in violation of any outstanding order of (a) this or (b) any other Court".

c. Deponent assumes that respondent has reference to its Order dated January 14, 1985 which stayed execution of the Order of January 7, 1985. Petitioner is entitled to know beforehand if his assumption in this respect is correct and exclusive.

d. Respondent's reference to violation of "any other Court" is nebulous, constitutionally infirm, since it provides "no notice" to your petitioner of the issues to be met.

e. Respondent and petitioner's accusers should be compelled to immediately set forth, with specificity, the Orders claimed to have been violated and the manner by which it claims such orders have been violated.

7. Clearly, the Office of [the] Special Referees is not a constitutional nor appropriate forum for such hearings!

a. Such "Office" is the home of Referee Donald Diamond "the corrupt judicial fixer" in the Puccini litigation, who himself is a defendant in several actions pending in state and federal court, wherein petitioner is an adverse party and/or the attorney for adverse parties.

All proceedings before Referee Diamond are "non-public", and at times "secret", with even interested persons, including petitioner, excluded therefrom.

Referee Diamond not only rejects constitutional and statutory mandates in this respect, but has rejected the statements made to his attorney, Senior Assistant Attorney General David S. Cook, Esq., by Associate Justice ARNOLD L. FEIN on the subject.

b. Referee Diamond's designation by Administrative Judge Xavier C. Riccobono was the direct result of ex parte conversations and transactions when the documentary evidence of larceny of judicially entrusted assets, perjury, and corruption surfaced.

Since such appointment of Referee Diamond's was made, the activities of Judge Riccobono have also resulted in lawsuits in the federal and state courts against him as well.

Obviously, any Special Referee would hesitate in rendering any decision which did not meet with the complete approval of Judge Riccobono and/or Referee Diamond.

8a. The nature of this proceeding, civil or criminal contempt, and the specifics of the charges made, will mark the parameters of petitioner's defenses and strategy. Whether the Appellate Division, First Department meant this proceeding to be civil or criminal contempt should be set forth immediately.

b. The compelled and inescapable conclusion is that respondent seems to be concerned with some perceived and erroneously assumed technical violations by petitioner only because he is possessed of a vast amount of evidence of judicial corruption in the underlying litigation.

c. Whether petitioner be a "saint or sinner" is and should be irrelevant in a contempt proceeding in so far as his "due process" and other fundamental constitutional rights are concerned. Instructively, the Court in United States v. Flynt (756 F.2d 1352 [9th Cr.]), the Court stated:

"... the issues presented here ... raise questions of essential fairness. No matter how opprobrious the offense, every person is entitled to have his guilt or innocence determined in a manner that complies with our rules, laws and Constitution."

d. If respondent desires to label petitioner a pariah, it should do so "the american way" -- after a constitutional trial with the right to confront his accusers.

e. The fact that petitioner's accusers and those who act in consort with them, including Referee Diamond, avoid trials and accuse and convict only in "secret", is significant, if not dispositive as to the merits of their accusations.

WHEREFORE, it is respectfully prayed that
the relief requested herein be granted in all respects,
with costs.

Dated: August 23, 1985



Yours, etc.,

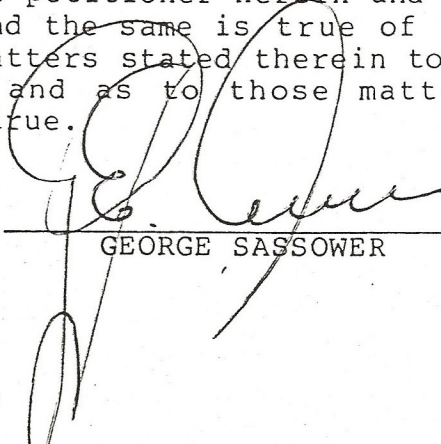
GEORGE SASSOWER, Esq.
Attorney for petitioner
pro se.

H

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


GEORGE SASSOWER, first being duly sworn,
deposes, and says:

Deponent is the petitioner herein and has
read the foregoing Petition 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 believes them to be true.



GEORGE SASSOWER

Sworn to before me this
23rd day of August, 1985



BARBARA TATESURE
Notary Public State of New York
No. 24-4760746
Qualified in Kings County
Commission Expires March 30, 1988

7
FILED
MAY 21 1985

At a term of the Appellate Division of the Supreme Court
held in and for the First Judicial Department in the County of
New York, on May 21, 1985

Present—Hon. Leonard H. Sandler Justice Presiding
David Ross
Max Bloom
E. Leo Milonas
Betty Weinberg Ellerin Justices

-----x
JEROME H. BARR and CITIBANK, N.A., as :
Executors of the Will of Milton :
Kaufman, :
 :
Plaintiffs-Respondents, :
 :
-against- :
 :
HYMAN RAFFE, :
 :
Defendant-Appellant. :
 :
-----x

In the Matter of the Application of :
Jerome H. Barr and Citibank, N.A., :
as Executors of the Will of Milton :
Kaufman, Holders of One-Quarter of :
All Outstanding Shares of Puccini :
Clothes, Ltd. Entitled to Vote in :
an Election of Directors, :
 :
Petitioners, :
 :
For the Dissolution of Puccini :
Clothes, Ltd. :
 :
HYMAN RAFFE, :
 :
Appellant. :
 :
-----x

M-1972

M-1972

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

Plaintiff-Appellant,

-against-

LEE FELTMAN, FELTMAN, KARESH & MAJOR
and Hon. XAVIER C. RICCOBONO, as trustee;
Hon. MICHAEL J. DONTZIN, as trustee; and
Hon. THOMAS J. SINCLAIR, JR., as trustee;
individually and as etc.; and FIDELITY
AND DEPOSIT COMPANY OF MARYLAND,

Defendants-Respondents.
-----x
-----x

GEORGE SASSOWER,

Plaintiff-Appellant

-against-

DONALD F. SCHNEIDER and FELTMAN,
KARESH & MAJOR and "JOHN DOE",
person intended to be one who
purportedly gave defendants
"instructions",

Defendants-Respondents.
-----x

HYMAN RAFFE and GEORGE SASSOWER,

Plaintiffs-Appellants,

-against-

ARUTT, NACHAMIE, BENJAMIN, LIPKIN &
KIRSCHNER, P.C., and FELTMAN, KARESH,
& MAJOR, ESQS.

Defendants-Respondents.
-----x

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

Petitioners-Appellants,

-against-

Hon. XAVIER C. RICCOBONO, Hon. MICHAEL
J. DONTZIN, and Hon. THOMAS V. SINCLAIR,
JR., individually and on behalf of the
SUPREME COURT OF THE STATE OF NEW YORK,
COUNTY OF NEW YORK, as trustees of
PUCCINI CLOTHES, LTD.; Hon. ROBERT ABRAMS;
KREINDLER & RELKIN, P.C.; ARUTT, NACHAMIE,
BENJAMIN, LIPKIN & KIRSCHNER, P.C.; LEE
FELTMAN: and FELTMAN, KARESH & MAJOR,

Respondents-Respondents.

-----x
-----x
HYMAN RAFFE, individually and on behalf
of PUCCIN CLOTHES, LTD.,

Plaintiff-Appellant,

-against-

JEROME H. BARR and CITIBANK, N.A., as
executors of the Last Will and Testament
of MILTON KAUFMAN, and LEE FELTMAN,

Defendants-Appellants.

-----x
-----x
HYMAN RAFFE,

Plaintiff-Appellant,

-against-

EDWARD WEISSMAN,

Defendant-Respondents.

-----x

M-1972

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

Plaintiff-Appellant.

-against-

DONALD DIAMOND, JEROME H. BARR and
CITIBANK, N.A., individually and as
Executors of the Estate of MILTON KAUFMAN;
and LEE FELTMAN,

Defendants-Respondents
-----X

In the Matter of the Application of
Jerome H. Barr and Citibank, N.A.,
as Executors of the Will of Milton
Kaufman, Holders of One-Quarter of
All Outstanding Shares of Puccini
Clothes, Ltd. Entitled to Vote in
an Election of Directors,

Petitioners-Respondents,

For the Dissolution of Puccini
Clothes, Ltd.
HYMAN RAFFE and GEORGE SASSOWER,

Appellants.
-----X
-----X

HYMAN RAFFE,

Plaintiff-Appellant,

-against-

KREINDLER & RELKIN, P.C.

Defendant-Respondent.
-----X

M-1972

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

Plaintiff - Appellant

-against-

KREINDLER & RELKIN, P.C.; FELTMAN,
KARESH & MAJOR; and ARUTT, NACHAMIE,
BENJAMIN, LIPKIN & KIRSCHNER, P.C.,

Defendants-Respondents. .
-----x

Appeals having been taken to this Court by the above-named appellant from two orders of the Supreme Court, New York County, entered, respectively, on March 13 and March 11, 1985, and by the appellant and George Sassower, Esq., as attorney for Raffe, from an order of said court also entered on March 11, 1985,

And plaintiffs-respondents having moved this Court for an order dismissing the appeals noticed and purportedly perfected by appellant, pro se, for the June 1985 Term hereof and holding Hyman Raffe and George Sassower, Esq., in contempt for violation of orders disqualifying George Sassower, Esq., as attorney for Hyman Raffe herein and for violating the order of this Court entered on January 14, 1985, which stayed execution and enforcement of the order entered on January 7, 1985 (Danzig, J.) which removed the disqualification of George Sassower, Esq., for the action under Index No. 16792/80,

Now, upon reading and filing the notice of motion, with proof of due service thereof, and the papers filed in support of said motion and the papers filed in opposition or in relation thereto, and due deliberation having been had thereon,

It is ordered that determination of the motion be and the same hereby is held in abeyance, hearing and determination of the aforesaid appeals are hereby adjourned until the further order of this Court, and the issue as to whether George Sassower, Esq. is in violation of any outstanding order of this or any other Court is referred to the Office of Special Referees of the Supreme Court, New York County, 60 Centre Street, New York, New York, Room 308M, for said purpose.

ENTER:

Harold J. Reynolds

Clerk.

At a term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York, on May 21, 1985.

Present—Hon. Leonard H. Sandler, Justice Presiding,
David Ross,
Max Bloom,
E. Leo Milonas,
Betty Weinberg Ellerin, Justices.

-----X
Jerome H. Barr and Citibank, N.A., as
Executors of the Estate of Milton Kaufman, :
Plaintiffs-Respondents,
-against- :
Hyman Raffe,
Defendant-Appellant.

M-1875

-----X
In the Matter of the Application of
Jerome H. Barr and Citibank, N.A., as :
Executors of the Will of Milton Kaufman, :
Holders of One-Quarter of All Outstanding :
Shares of Puccini Clothes, Ltd. Entitled :
to Vote in an Election of Directors, :
Petitioners, :
For the Dissolution of Puccini Clothes,
Ltd.,
Hyman Raffe,
Appellant.

-----X
Appeals having been taken to this Court by the above-named appellant from four orders of the Supreme Court, New York County, entered on January 2, 1985, January 15, 1985, January 24, 1985, and March 13, 1985,

And plaintiffs-respondents having moved for an order of this Court dismissing the appeals noticed and purportedly perfected by appellant, pro se, for the May 1985 Term of this Court, and holding Hyman Raffe and George Sassower in contempt of court for violation of orders disqualifying George Sassower as attorney for Hyman Raffe and for violation of this Court's order dated January 14, 1985 (M-151) which stayed execution and enforcement of the order entered on January 7, 1985 by Justice Danzig which removed the disqualification of George Sassower for the action under Index No. 16792/80,

May 21, 1985

Now, upon reading and filing the notice of motion, with proof of due service thereof, and the papers filed in support of said motion and the papers filed in opposition or in relation thereto; and due deliberation having been had thereon,

It is ordered that determination of the motion be and the same hereby is held in abeyance, hearing and determination of the aforesaid appeals are hereby adjourned until the further order of this Court, and the issue as to whether George Sassower, Esq. is in violation of any outstanding order of this or any other Court is referred to the Office of Special Referees of the Supreme Court, New York County, 60 Centre Street, New York, New York, Room 308M, for said purpose.

ENTER:

HAROLD J. REYNOLDS

Clerk.

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

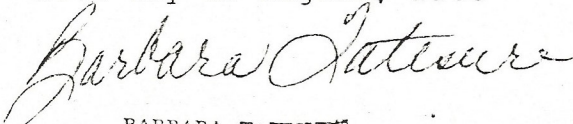
PAT GOMEZ, first being duly sworn, deposes,
and says:

I am over the age of 21, reside at 739 East
88th Street, Brooklyn, New York, 11236 and not a party
to this action.

That on the 23rd day of August, 1985, I served
a copy of the within Notice of Petition and Petition by
depositing same in a Post Office Box in the State of New
York, addressed to Hon. Leonard H. Sandler; Appellate
Division, First Dept.; Robert Abrams, Esq.; Kreindler &
Relkin, P.C.; Arutt, Nachamie, Benjamin, Lipkin &
Kirschner, P.C.; and Lee Feltman, Esq., at their last
known addresses.


PAT GOMEZ

Sworn to before me this
26th day of August, 1985



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

APPELLATE DIVISION : THIRD DEPARTMENT

GEORGE SASSOWER, Esq.,
Petitioner,

-against-

APPELLATE DIVISION OF THE SUPREME COURT
OF THE STATE OF NEW YORK, FIRST JUDICIAL
DEPARTMENT,

Respondent.

Notice of Petition and Petition

GEORGE SASSOWER

Attorney for

petitioner

Office and Post Office Address, Telephone

2125 MILL AVENUE

BROOKLYN, NEW YORK 11234

718-444-3400

RECEIVED

AUG 26 1985

APPELLATE DIVISION SUPREME
COURT, FIRST DEPARTMENT

Handwritten signature

RECEIVED
AUG 26 11:24 AM '85
APPELLATE DIVISION SUPREME COURT, FIRST DEPARTMENT

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

19

at

M.

Dated,

Yours, etc.

GEORGE SASSOWER

Attorney for

To

Office and Post Office Address

2125 MILL AVENUE

BROOKLYN, NEW YORK 11234

Attorney(s) for