UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

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GEORGE SASSOWER, etc.,

Plaintiffs,

-against-VINCENT G. BERGER, JR., et el, Defendants. 86 Civ. 3797 [JM]

SIRS:

PLEASE TAKE NOTICE, that upon the annexed affirmation (and Memorandum) of GEORGE SASSOWER, Esq., dated November 15, 1987, duly sworn to on the 10th day of November, 1987, the undersigned will move this Court before Hon. JACOB MISHLER, United States District Judge, at the United States Courthouse, Uniondale Avenue and Hempstead Turnpike, Uniondale, New York, 11554, on the 1st day of December, 1986, 9:30 o'clock in the forenoon of that day, or such other day and time the Court believes appropriate, for a Rule 3[j] order granting reargument of the Order dated November 6, 1987, together with any other, further, and/or other 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 in accordance with the Rules of this Court.

Dated: November 15, 1987

Yours, etc.

GEORGE SASSOWER, Esq. Attorney for plaintiffs 16 Lake Street, White Plains, N.Y., 10603

(914) 949-2169

To: Reisman, Pierez, Reisman, Calica, Esgs.

Arnold I. Silberstein, Esq.

Robert Abrams, Esq.

Cahn, Wishod Wishod & Lamb, Esqs.

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK

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Plaintiffs,

-against-VINCENT G. BERGER, JR., et el, Defendants. 86 Civ. 3797

- This affirmation is made in support of plaintiff's Rule 3[j] motion, for reargument of the Order dated November 6, 1987, received in an envelope postmarked November 9, 1987, filed November 2, 1987, and received on November 13, 1987.
- b. This affirmation is also intended to serve as plaintiff's "memorandum".
- 2a. This Court, in the aforementioned determination, overlooked the fact that the Constitution of the United States is the supreme Law of the Land, and the Constitution (Article 1, §8, cl. 4), and the law (Title 11 <u>U.S.C.</u> §362), is crystal clear, specific, and unambiguous.
- b. Additionally, some of the defendants, as well as plaintiffs, were <u>not</u> part of the prior actions and/or proceedings, and there is <u>no</u> stay in favor of those defendants against those plaintiffs.

Nor is there, nor could there be, any stay as to causes of actions, as here, thereafter arising.

- c. Furthermore, where the original judicial determinations were the product of fraud, it is the general rule that security (and similar financial preconditions) are eliminated (e.g. CPLR 6312[b]).
- 3a. The Constitution of the United States gives to Congress the power, under Article 1, §8, cl. 4, to establish "uniform laws on the subject of bankruptcy".
- b. No substantive bankruptcy powers are given to the judiciary.
- 4a. Congress, by virtue of this Constitutional grant, in 11 <u>U.S.C.</u> §362, automatically stayed all collections proceedings against those who file a petition in bankruptcy.
- b. Congress, and only congress, can legislate exceptions, which it did [subdivision "b"].
- c. Relief from any "automatic stay" can be granted by the bankruptcy court only after notice and a hearing, which the defendants herein never requested.
- 5. Congress, by a grant of a cause of action for money damages [subdivision "h"], also provided relief as against those who violate the aforementioned, during the period of such automatic stay [subdivision "c"].
- 6. The aforementioned is true under penalty of perjury.

WHEREFORE, it is respectfully prayed that this matter be addressed to the merits, together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.

Dated: November 15, 1987

GEØRGE SASSØWER