

At a Special Term, Part I  
of the Supreme Court of the  
State of New York, held in  
and for the County of New  
York, at the Courthouse,  
60 Centre Street, New York  
on the 10<sup>th</sup> day of June 1985

P R E S E N T:

Hon. Alvin F. Klein,

Justice.

-----X  
HYMAN RAFFE,

Plaintiff,

-against-

XAVIER C. RICCOBONO, DONALD DIAMOND,  
FELTMAN, KARESH & MAJOR, ESQ. and  
KREINDLER & RELKIN, P.C.,

Defendant.  
-----X

HYMAN RAFFE,

Plaintiff,

-against-

KREINDLER & RELKIN, P.C., Hon. WALTER  
M. SCHACKMAN, "JOHN DOE", and "JOHN ROE",  
names fictitious, persons intended to be  
those who communicated with the Court,  
ex parte,

Defendants.  
-----X

HYMAN RAFFE,

Plaintiff,

-against-

DONALD B. RELKIN, ESQ., MICHAEL J.  
GERSTEIN, ESQ., KREINDLER & RELKIN,  
P.C., CITIBANK, N.A., and JEROME H.  
BARR, ESQ., individually and as Executors  
of the Will of Milton Kaufman

Defendant.  
-----X

CITY CLERK FROM JUSTICE BOOK  
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JUL 1 1985

MINUTE SPECIAL TERM  
ACTION No. 1)

Index No. 9522/85

ORDER

(Action No. 2)

(Action No. 3)

EA

Kreindler & Relkin, P.C., defendant in Actions No. 1 and Action No. 2; and Donald B. Relkin, Michael J. Gerstein, Kreindler & Relkin, P.C., Citibank, N.A. and Jerome H. Barr individually and as Executors of the Will of Milton Kaufman defendants in Action No. 3 having moved for: a) An order pursuant to CPLR 3211(a)1, 3211(a)3 and 3211(a)7 dismissing this action or alternatively permanently staying the action as being brought in violation of the Order of Justice Gammerman dated January 23, 1985; b) An order holding George Sassower and Hyman Raffe in three counts of criminal contempt of Court on the grounds that in commencing each of these three actions they have flagrantly and deliberately violated the injunction issued by Justice Gammerman, which injunction permanently enjoined and restrained George Sassower and Hyman Raffe and anyone acting in concert or cooperation with either of them from filing or serving any further lawsuits against any of the Movants arising out of the enforcement of Hyman Raffe's guarantees; c) awarding to the Movants damages including reasonable attorneys' fees which resulted from the violation of Justice Gammerman's injunction by Hyman Raffe and George Sassower, pursuant to Judiciary Law §773 and the prior order of this Court which held that "future motions by Messrs. Sassower and Raffe should be examined in light of the well established exception to the American Rule that attorneys' fees are recoverable in response to vexatious suits and litigation commenced in bad faith"; and

Feltman, Karesh & Major, defendant in Action No. 1, having moved for an order:

(i) permanently staying and enjoining the prosecution of this action against defendant Feltman, Karesh & Major in accordance with this Court's permanent injunction order of January 23, 1985 (Gammerman, J.) (the "Permanent Injunction Order"); or alternatively,

(ii) dismissing this action pursuant to CPLR 3211(1) 1, 3 and 5 as barred by the Permanent Injunction Order; and

(iii) punishing attorney George Sassower, plaintiff Hyman Raffé and Samuel Polur, who served the Summons with full knowledge of the Permanent Injunction Order, as and for a criminal contempt of court on the grounds that in serving the Summons and in commencing this action they have flagrantly and deliberately violated the Permanent Injunction Order, which Order, inter alia, permanently enjoined and restrained George Sassower and Hyman Raffé and anyone acting in concert or cooperation with either or both of them from filing or serving any further lawsuits against Feltman, Karesh & Major, arising out of or relating to, inter alia, the judicial dissolution, the receivership of Puccini Clothes, Ltd. or the representation of the Receiver by Feltman, Karesh & Major; and

(iv) awarding to Feltman, Karesh & Major damages, including reasonable attorney's fees, which resulted from the violation of the aforesaid Order by George Sassower, Hyman Raffe and Samuel Polur, pursuant to Judiciary Law §773 and the prior Order of this Court which held that "future motions by Messrs. Sassower and Raffe should be examined in light of the well-established exception to the American rule that attorneys' fees are recoverable in response to vexatious suits and litigations commenced in bad faith"; and

(v) for such other, further and/or different relief as to this Court may seem just and proper:

Now, upon reading and filing the Notice of Motion of Kreindler & Relkin, P.C., dated April 30, 1985, the affidavit of Michael J. Gerstein, duly sworn to on April 30, 1985, and the exhibits annexed thereto; the affidavit of personal service of the Notice of Motion on Hyman Raffe of Roger Dougherty, sworn to on May 13, 1985; the affidavit of personal service of the Notion of Motion on George Sassower of Roger Dubin sworn to on May 6, 1985, all in support of Kreindler & Relkin P.C.'s motion, and upon the Notice of Motion of Feltman, Karesh & Major dated April 11, 1985, the affidavit of Donald F. Schneider, duly sworn to on April 11, 1985, and the exhibits annexed thereto; the affidavit of service of the Notice of Motion on George Sassower of

Donald F. Schneider sworn to on April 19, 1985; the affidavit of service of the Notice of Motion on Samuel Polur of Donald F. Schneider, sworn to on April 19, 1985; the Supplemental Affirmation of Donald F. Schneider, dated May 6, 1985 all in support of Feltman, Karesh & Major's motion, and said motion having regularly come on to be heard for oral argument before the Honorable Alvin F. Klein at Special Term Part I of this Court on May 29, 1985; and after hearing Kreindler & Relkin, P.C. by Michael J. Gerstein, Esq., and Feltman, Karesh & Major by Donald F. Schneider, Esq., in support of the motions, and Sam Polur, Esq., on behalf of Hyman Raffe, George Sassower and Sam Polur in opposition thereto;

And due deliberation having been had thereon; and Hyman Raffe, George Sassower and Sam Polur, having commenced these actions and served the summonses in wilful and deliberate violation of an order of Justice Gammerman dated January 23, 1985, which Order permanently enjoined commencement of actions such as these three, which were commenced with full knowledge of the said Order, and the conduct of Hyman Raffe, George Sassower and Sam Polur having been calculated to and having defeated, impaired, impeded and prejudiced the rights of defendants Kreindler & Relkin, P.C. and Feltman, Karesh & Major in Action No. 1; Kreindler & Relkin, P.C., in Action No. 2, and Donald B. Relkin, Esq., Michael J. Gerstein, Esq., Kreindler & Relkin, P.C., Citibank, N.A. and Jerome H. Barr, Esq., individually and as Executors of the Will of Milton Kaufman in Action No. 3; and this Court having rendered a decision dated June 6, 1985 ~~granting the motions~~;

Now, on motion of Kreindler & Relkin, P.C. and Feltman, Karesh & Major, it is

ORDERED, that motions Nos. 21 & 178 on the calendar of May 29, 1985 are consolidated for disposition; and it is further ORDERED THAT THE MOTIONS ARE GRANTED AND IT IS FURTHER

ORDERED, that so much of defendants' motions as seek to dismiss these actions pursuant to CPLR 3211(a)1, CPLR 3211(a)3, CPLR 3211(a)5 and CPLR 3211(a)7 are granted; and it further

ORDERED, that Action No. 1 is dismissed pursuant to CPLR 3211(a)1, CPLR 3211(a)3, CPLR 3211(a)5, and CPLR 3211(a)7 as to defendants Feltman, Karesh & Major Esqs., and Kreindler & Relkin, P.C.; and it is further

ORDERED, that Action No. 2 is dismissed pursuant to CPLR 3211(a)1, CPLR 3211(a)3, CPLR 3211(a)5, and CPLR 3211(a)7 as to defendant Kreindler & Relkin, P.C.; and it is further

ORDERED, that Action No. 3 is dismissed pursuant to CPLR 3211(a)1, CPLR 3211(a)3, CPLR 3211(a)5, and CPLR 3211(a)7 as to all defendants therein; and is further

ORDERED, that the motions of Kreindler & Relkin, P.C. to punish Hyman Raffe and George Sassower for criminal contempt, and the motion of Feltman, Karesh & Major to

punish George Sassower and Samuel Polur for a criminal contempt, are granted in all respects; and it is further

ORDERED AND ADJUDGED, that Hyman Raffe, George Sassower and Samuel Polur are guilty of criminal contempts of court for having wilfully and deliberately violated the Order of Justice Gammerman, dated January 23, 1985, which Order permanently enjoined commencement of the within actions, and it is further

ORDERED, that pursuant to the Judiciary Law of the State of New York, by reason of such criminal contempt of court, Hyman Raffe, George Sassower, and Samuel Polur shall each be imprisoned for a period of thirty (30) days in the jail of the county of this Court, and George Sassower shall pay a fine of \$250.00 to each of Feltman, Karesh & Major, 55 East 52nd Street, New York, New York, Kreindler & Relkin, P.C., Donald B. Relkin, Esq., Michael J. Gerstein, Esq., 500 Fifth Avenue, New York, New York and Citibank N.A. and Jerome H. Barr, individually and as Executors of the Will of Milton Kaufman, One Citicorp Center, New York, New York, Hyman Raffe shall pay a fine of \$250.00 to each of Feltman, Karesh & Major, 55 East 52nd Street, New York, New York, Kreindler & Relkin, P.C., Donald B. Relkin, Esq., Michael J. Gerstein, Esq., 500 Fifth Avenue, New York, New York and Citibank N.A. and Jerome H. Barr, individually and as Executors of the Will of Milton Kaufman, One Citicorp Center, New York, New York and Sam Polur shall pay a fine of \$250.00 to

