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DEPARTMENT OF LAW
CLAIMS BUREAU

DISTRICT COURT
CITY OF NEW YORK

et al.,

Civ. No. 75-132E

Plaintiffs,

-against-

THE ESTATE OF NELSON A. ROCKEFELLER,
et al.

Defendants.

MOTION ON BEHALF OF DEFENDANT
VINCENT R. MANCUSI FOR AN
ORDER PROVIDING FOR JOINT
DISCOVERY, INSPECTION AND
COPYING OF DOCUMENTS AND
ADJOURNMENT OF CLASS
RECERTIFICATION.

Defendant Vincent R. Mancusi moves for an order:

1. Providing for joint discovery by Plaintiffs and Defendants of the Attica documents in the possession of the Attorney General of the State of New York in accordance with the terms and conditions which may be agreed upon between the parties or fixed by the Court.

2. An examination without copying of the Grand Jury testimony taken with respect to the Attica uprising subject to the further order of the Court on good cause shown permitting the use of such Grand Jury testimony to test the recollection of witnesses, refresh the witnesses' recollection or impeach the witnesses' testimony upon the trial or depositions taken for use upon the trial.

3. Adjourning Plaintiffs' motion to recertify the class pending the joint discovery and copying of Attica documents.

The grounds for the motion are:

1. None of the Attica documents for which the joint inspection and copying is requested have been previously copied by the Plaintiffs or any other party. Making multiple copies of each document at the single time it is photostated will save time and expense on the matter and assist

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

AKIL AL-JUNDI, et al.,

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-against-

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et al.

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3. Adjourning Plaintiffs' motion to recertify the class pending the joint discovery and copying of Attica documents.

The grounds for the motion are:

1. None of the Attica documents for which the joint inspection and copying is requested have been previously copied by the Plaintiffs or any other party. Making multiple copies of each document at the single time it is photostated will save time and expense on the matter and assist

the Deputy Attorney General in charge of the documents in maintaining the integrity of the Attica files.

2. The Deputy Attorney General in charge of the Attica documents has agreed that the file copy of each such document may be Bates numbered in red prior to copying. This will provide a single uniform record identifying all Attica documents to be used upon depositions or the trial and a common serial number index for all such documents. This will expedite the deposition and the marking and control of documents at the trial.

3. Although Plaintiffs' counsel has examined many of the Attica documents, other important ones such as the inmates' folders, which are critical to the question of class certification, have not yet been examined by any party other than the Attorney General.

DATED: Buffalo, New York
November 28, 1984

Yours, etc.

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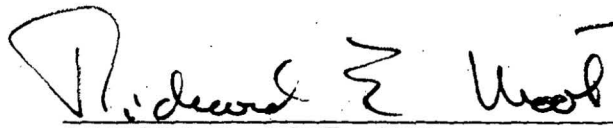
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CERTIFICATE OF SERVICE AND FILING

I, RICHARD E. MOOT, ESQ., counsel for the Defendant, Vincent R. Mancusi, certify that the above Motion on Behalf of Defendant Vincent R. Mancusi for an Order Providing for Joint Discovery, Inspection and Copying of Documents and Adjournment of Class Recertification was served upon all counsel as per the attached list by mailing to all named counsel at the addresses shown on December 4, 1984 and thereafter filed with the Clerk of the Court.

DATED: Buffalo, New York
December 4, 1984


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-against-

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et al.

Defendants.

Civ. No. 75-132E

DECLARATION OF RICHARD E. MOOT
IN SUPPORT OF MOTION BY VINCENT
R. MANCUSI FOR AN ORDER OF
JOINT DISCOVERY.

I, Richard E. Moot, Esq., counsel for Defendant Vincent R. Mancusi, pursuant to Title 28 U.S.C. §1746, declare and state under penalty of perjury the following:

1. In February 1980, six years after the commencement of the action, I was retained by the State of New York on behalf of Defendant Vincent R. Mancusi. Since that time, there has been no discovery by production and copying of documents or depositions in this case.

2. That on November 27, 1984, with counsel for other defendants, I met with the Deputy Attorney General of the State of New York, Mr. Perry, at the World Trade Center to view the Attica documents in his possession. He advised us at the time that counsel for the Plaintiffs, Elizabeth Fink, had examined many of the documents, but that none had been copied and that there was no complete index of the documents which she had examined and there were several documents such as the inmates' folders which had not yet been examined.

3. I physically viewed the file cabinets and cartons in which the documents are stored and kept at the Attorney General's office in the World Trade Center and estimate that there are approximately 20 file-cabinet drawers or equivalent size cartons of such documents.

4. Based upon my experience in the Courier Express v. Buffalo Evening News antitrust case and the Central Hudson, et al. v. Combustion Engineering, et al. Roseton Power Station litigation, this is not a large number of documents. I estimate that the complete set of documents can be initially examined, Bates numbered and copies with multiple copies for each of the parties requesting copies made in a few months time. Allowing for reasonable interruptions and unavoidable delays, the examination, copying and index could, in my judgment, be completed in less than six months.

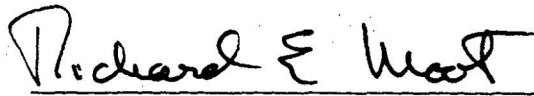
5. Based upon my experience in the Courier Express v. Buffalo Evening News antitrust case and the Central Hudson Roseton litigation, I can say that stamping the file copy of documents with a red Bates number prior to making multiple copies and distributing them to each of the parties and retaining a master set for the Court saves a great deal of time and identifying documents on oral depositions and for pre-marking and use at the trial. The system also protects the integrity of the original files of the Attorney General where the master file copy marked in red can be retained and produced for comparison with any photocopy which is being offered at the trial with a black Bates number if such comparison is required.

6. From the description of the documents in the possession of the Attorney General and our brief examination of sample documents, it appears that the facts and particulars in many of these documents will aid the parties and the Court with respect to the present motion to recertify the case as a class action and that withholding decision on the motion to recertify the class until the examination of the documents has been completed will save Court time and time of all the parties.

7. I have spoken with various defense counsel and counsel for the Plaintiffs, Elizabeth Fink. In my judgment, all the parties will be able to agree with respect to the terms and conditions of such joint examination with the possible exception of the Attorney General's claim of partial privilege. In my judgment, the parties will be able to submit a proposed order for the joint discovery, copying and indexing of the documents which have the approval of all counsel. In the event any items are in disagreement, two or more proposed orders may be submitted for the Court's ultimate decision.

WHEREFORE, it is respectfully requested that the motion for joint discovery of the documents and the adjournment of the motion to recertify the class be granted.

DATED: Buffalo, New York
November 28, 1984


RICHARD E. MOOT, ESQ.

Sir(s): You will please take notice that a
.....
of which the within is a copy, was this day duly
entered in the office of the Clerk of the County of
.....

DATED:, 19.....

Yours, etc.,
MOOT & SPRAGUE
ATTORNEYS FOR

TO:
.....
Attorney(s) for
TO:
.....
Attorney(s) for

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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ROCAFELDER, et al.**

Defendants.

**COPY MOTION ON BEHALF OF DEFENDANT
VINCENT R. MANCUSI FOR AN ORDER PROVID-
ING FOR JOINT DISCOVERY, INSPECTION AND
COPYING OF DOCUMENTS AND ADJUDICATION OF
CLASS REIFICATION.**

MOOT & SPRAGUE
ATTORNEYS FOR Defendant Vincent R.
Mancusi

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(716) 845-5200

Due and personal service of a copy of the within
.....
together with Notice of entry thereof is hereby admitted
this day of, 19
.....
Attorney(s) for
.....
Attorney(s) for