

Correspondence of Banas, Pro Se Plaintiffs, United States District Court, Western District of New York in the matter of Akil Al-Jundi, et al. vs Rockefeller et al.

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VIA HAND DELIVERY 10/14/91

Hon. John T. Elfvin
United States District Court
Western District of New York
66 Court Street
Buffalo, New York 14202

Re: Al-Jundi, et al. v. Rockefeller, Oswald, et al.
Civil No. 75-132E

Dear Judge Elfvin:

At our last pre-trial conference, the plaintiffs raised the spectre of the so-called typical plaintiffs (i.e., Frank Smith and Jerome Rosenberg) and the one plaintiff who purports to be represented by separate counsel (i.e., Herbert Ryden, represented by John Elmore, Esq.) actively participating in the trial. The Court indicated its disinclination to allow such active participation, and properly so.

Messrs. Smith, Rosenberg, and Ryden are named class representatives in this action. As such, their claims purport to be typical of the claims of the class; indeed, the Amended Complaint so alleges. See Amended Complaint 17(c). In addition, one of the factors in determining class certification is the adequacy of class counsel; this Court has evidently concluded that Elizabeth Fink, Esq., et al., adequately represent the interests of the class. Moreover, neither Mr. Smith, Mr. Rosenberg nor Mr. Ryden point to any particular factor or circumstance which saves their claims any different from the claims of the rest of the class members or which place their individual claims in conflict with those of the class members. To the extent that their individual claims -- like those of each and every other class member -- involve particular facts not common to the class, those matters would relate to individual damages and proximate causation issues; those issues, however, are not to be addressed until the damages aspect of this trial, if any. Finally, as recognized by the Court, Messrs.

Correspondence of Banas to Hon. John T. Elfvin regarding Pro Se Plaintiffs, United States District Court, Western District of New York in the matter of Akil Al-Jundi, et al. vs Rockefeller et al.

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