

GEORGE SASSOWER

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Grievance Committee
Second & Eleventh Judicial Districts
335 Adams Street
Brooklyn, New York 11201

Re: Milton Mollen #1015726

April 23, 2012

Sirs:

1. This is the first of two, interrelated but separate, disciplinary complaints against Milton Mollen for misconduct while he was Presiding Justice of the New York State Appellate Division, Second Judicial Department, as well as for his misconduct afterward, as a private attorney.

This Part targets, as the victim, *Doris L. Sassower*, Esq. and describes events no later than June of 1978.

2. Absent articulated justification, the failure to sanction *Milton Mollen*, Esq. based on his misconduct, has collateral consequences, of importance to every lawyer, and every client of every lawyer (see, e.g., *Middlesex County Bar v. Garden State Bar*, 457 U.S. 423 [1982]; *Association of the Bar of the City of New York v. Isserman*, 271 F.2d 784 [2nd Cir.-1959]; *Vilella v. Santagata*, 87 Civ 1450 [SDNY-GLG]).

3. For reasons stated herein, the undersigned contends the "confidentiality" provisions of *NY Judiciary Law* §90 are not available, to either *Milton Mollen* or this tribunal in this matter.

"The Immutable & Unassailable Facts"

1. All the disposable monies & assets in the *Estate of Eugene Paul Kelly, deceased* ["*Kelly Estate*"] (Surrogate's. Court, Suffolk County-Docket #1972P736) were *unlawfully* dissipated to satisfy the *personal* obligations of New York, Suffolk County, Surrogate *Ernest L. Signorelli*, and the *personal* desires of Public Administrator *Anthony Mastroianni*, leaving *nothing* for any beneficiary, including the prime beneficiaries, the three (3) motherless infants, the children of the predeceased daughter of the testator.

After *Signorelli-Mastroianni* dissipated all the disposable assets in the *Kelly Estate*, leaving *nothing* for any beneficiary, the U.S. *Internal Revenue Service* imposed a substantial assessment against *Anthony Mastroianni* "personally", for his *personal* failure to make timely payment of the taxes due from the *Kelly Estate*, when the monies in the *Kelly Estate* were available.

Anthony Mastroianni to satisfy such *personal* obligation to the U.S. *Internal Revenue Service* and other *personal* obligations, *ex parte & sua sponte*, seized the assets in the *Gene Kelly Moving & Storage, Trusts*, ["*Kelly Trusts*"] where the prime beneficiaries were the same three (3) motherless infants.

Thus, the three (3) motherless infants, where the New York State Attorney General ["NYSAG"], on behalf of the State of New York, is the *parens patriae* of these motherless infants, received *nothing* from either the *Kelly Estate* or the *Kelly Trusts*!

Today, thirty-five (35) years after *Anthony Mastroianni* was appointed "*The Temporary Administrator*" of the *Estate of Eugene Paul Kelly, deceased*: (1) there are none of mandatory settled accountings; (2) there is no valid judgement or final order terminating this judicial trust proceeding; (3) no valid order discharging *Anthony Mastroianni* or his surety, *Fidelity & Deposit Company of Maryland* ["F&D"] and (4) none of the mandatory *NY Judiciary Law* §35-a Statements.

2. All the judicial trust assets of *Puccini Clothes, Ltd.* - "*The Judicial Fortune Cookie*", an involuntarily dissolved N.Y. corporation, were dissipated by *Citibank, N.A.* and its "estate-chasing attorneys", *Kreindler & Relkin, P.C.* as "bribes", mostly to judges, leaving *nothing* for its nationwide legitimate creditors.

Today, thirty-two (32) years after *Puccini Clothes, Ltd.* was involuntarily dissolved: (1) there are none of mandatory accountings by the court-appointed receiver; (2) there are none of the mandatory applications by the NYSAG, the statutory fiduciary, to compel the court-appointed receiver to “account & distribute” [*NY Bus. Corp. Law* §1216] (3) there is no valid judgement or final order terminating this judicial trust proceeding; (4) there is no order discharging *Lee Feltman*, the court-appointed receiver, or his surety, *Fidelity & Deposit Company of Maryland* [“F&D”] and (5) there are none of the mandatory *NY Judiciary Law* §35-a Statements.

3. Because all of the monies & assets in the *Kelly Estate* were dissipated to satisfy the personal obligations & desires of *Signorelli-Mastroianni* and all of assets in *Puccini Clothes, Ltd.* were dissipated, after *laundering*, as “bribes”, mostly to judges, there are none of the mandatory *NY Judiciary Law* 35-a Statements, as confirmed by Exhibit “A”, which is a January 30, 2012 Statement from the NY State Office of Court Administration, under the stewardship of Chief Administrative Judge *A. Gail Prudenti*!

4. Since the *Kelly Estate & Puccini Clothes, Ltd.* are *only* extreme examples of the usual, customary & ordinary, when an estate has significant assets & the jurist has the unbridled power to make compensatory appointments, monumental sums of Federal, State & Local government funds have been *unconstitutionally & unlawfully* expended by judges & officials to conceal their activities in the *Kelly & Puccini* judicial estates.

Charge “I”

1. Prior to February 24, 1978, there was not a single allegation or even a suggestion that *Doris L. Sassower, Esq.*, had committed a single act of misconduct, ethically or otherwise, with respect to the *Kelly Estate*.

2. On February 24, 1978, *Doris L. Sassower, Esq.*, an attorney, was neither a party, nor the attorney for any party having an interest in the *Kelly Estate*.

3. On February 24, 1978, without any decision pending to be made in Surrogate’s Court, Suffolk County with respect to the *Kelly Estate*, Surrogate *Ernest L. Signorelli*, without notice, *sua sponte*, issued a “*diatribe*” against *George Sassower, Esq.*, the then husband of *Doris L. Sassower, Esq.*, which concluded as follows (Exhibit “B”):

Mr. Sassower, a member of the bar, has impeded the orderly administration of this [Kelly] estate, and has caused it to incur needless expense. He has willfully and intentionally failed to heed any and all directives of this court, and I would be derelict in my duty if I failed to report his actions to the appropriate tribunal for disciplinary action. Doris Sassower, his wife and former counsel, should similarly be called upon to explain her extraordinary behavior in this matter.

I am accordingly directing the Chief Clerk to forward a copy of this decision to the Presiding Justice of the Appellate Division, Second Judicial Department [“*Milton Mollen*”], for such disciplinary action as he may deem appropriate with regard to the conduct of *George Sassower* and *Doris Sassower*.

This decision constitutes the order of the court.”

4. Unknown, at the time, to either *George Sassower, Esq.* or *Doris L. Sassower, Esq.* was that on March 3, 1978, Presiding Appellate Division Justice *Milton Mollen* responded to Surrogate *Ernest L. Signorelli*, by letter, a copy of which was mailed to the *Grievance Committee, Ninth Judicial District* and received by it on March 6, 1978, reading as follows (Exhibit “C”):

“Dear Surrogate Signorelli:

I am in receipt of a copy of your decision in the above stated matter, dated February 24, 1978, which decision alleges professional misconduct on the part of *George Sassower* and *Doris L. Sassower*, attorneys-at-law.

My office has contacted the Joint Bar Association Grievance Committee for the Ninth Judicial District and determined that the Committee is aware of the situation you described. Please be assured that appropriate action will be taken.

Thank you for bringing this matter to my attention.

Very truly yours,
MILTON MOLLEN
Presiding Justice

(Stamp) GRIEVANCE COMMITTEE, NINTH JUDICIAL DISTRICT, MAR 6, 1978"

5. Almost immediately, without disclosing the receipt of a copy of the March 3, 1978 letter by Presiding Appellate Division Justice *Milton Mollen*, the *Grievance Committee for the Ninth Judicial District* served a professional misconduct letter complaint on *Doris L. Sassower*, Esq.

The six (6) page response of *Doris L. Sassower*, Esq. of March 28, 1978 is annexed (Exhibit "D") which, in exacting detail describes, *inter alia*, the two (2) incidents which Surrogate *Ernest L. Signorelli* asserted she was alleged to have engaged in misconduct.

6. The published "diatribe" of Surrogate *Ernest L. Signorelli* to the contrary notwithstanding, the conduct of *Doris L. Sassower*, Esq., as described by him was not "extraordinary behavior" but "perfectly proper", particularly as amplified and explained by her.

The statement of Presiding Justice *Milton Mollen*, to the contrary notwithstanding, the conduct alleged to have been committed by *Doris L. Sassower*, Esq. did not constitute "professional misconduct"!

7A. The Grievance Committee for the Ninth Judicial District is here challenged to produce its findings, after its investigation, regarding the "extraordinary behavior" of *Doris L. Sassower*, Esq.

B. Chief Counsel *Gary L. Casella* will not, because he cannot show that her "behavior" was "extraordinary" as asserted by *Ernest L. Signorelli*!

C. The Grievance Committee for the Ninth Judicial District is here challenged to produce a copy of its petition to the Appellate Division, Second Department, which granted it permission to prosecute *Doris L. Sassower*, Esq. based on the complaint of Surrogate *Ernest L. Signorelli*.

Of necessity, it had to proliferate with fraud, deceit & misrepresentations!

8. Four (4) days later, on April 1, 1978, *Geo. Sassower*, Esq., executed a detailed fourteen (14) page response to the published "diatribe" of *Ernest L. Signorelli*, Esq.

There was *nothing* these two (2) detailed responses by *Doris L. Sassower*, Esq. & *Geo. Sassower*, Esq. which were denied or controverted, in any respect, by *Ernest L. Signorelli* or anyone else.

9. Nevertheless, Chief Counsel *Donald E. Humphrey* & thereafter Chief Counsel *Gary L. Casella* pursued *Doris L. Sassower*, Esq. & *Geo. Sassower*, Esq., not because of the merits of the complaints or lack thereof, but because of the "assurance" by Presiding Appellate Division Justice *Milton Mollen* to Surrogate *Ernest L. Signorelli* that "appropriate action will be taken."

Thus, in the most expensive disciplinary prosecution by the Ninth Judicial District, the result was a thirty-four (34) counts to zero (0) resounding vindication wherein, with minor & insignificant exceptions, the Grievance Committee did not disagree.

10. The Appellate Division, First Department confirmed the Reports of [former] NY Supreme Court Justice *Aloyisus J. Melia*, which matters had been transferred to it from the Second Department because Presiding Justice *Milton Mollen* was inextricably involved in the *Kelly* racketeering adventures by *Signorelli-Mastroianni* and their entourage.

Charge "II"

1. On June 23, 1977, the same day that *Geo. Sassower*, Esq. was incarcerated by Surrogate *Ernest L. Signorelli* for Criminal Contempt committed within the "immediate presence of the Court" when, in fact, he was 100 miles away, he was released on \$300 bail, based on his Writ of Habeas Corpus, signed by a Justice of the Supreme Court, Suffolk County.

2. Six (6) days later, on June 29, 1977, *Vincent G. Berger*, Esq., purporting to be the attorney for the Public Administrator, made several written complaints against *Geo. Sassower*, Esq. to: (1) the District Attorney of Suffolk County, (2) the District Attorney of Westchester County & (3) the Westchester Bar Association, but none of them acted on these manifestly suspect complaints.

3. In the Habeas Corpus proceeding that followed, although no one asserted that the Contempt Order & Warrant of June 22, 1977, were valid, Surrogate *Ernest L. Signorelli*, insisted that he & *Anthony Mastroianni* be defended by the NY State Attorney General & Suffolk County Attorney, unlawful State & County cost & expense.

4. N.Y. Supreme Court Justice *George F.X. McInerney* sustained the Writ of Habeas Corpus in a proceeding wherein no one claimed the Order & Warrant of June 22, 1977 were valid!

Although, *Ernest L. Signorelli* never claimed the Order & Warrant of June 22, 1977 were valid, he insisted that the Assistant NYSAG, who was representing him at NY State cost & expense, file a Notice of Appeal!

5. From contemporaneous events the compelled conclusion was that Surrogate *Ernest L. Signorelli*, *Vincent G. Berger*, Esq. & the Chief Clerk of Surrogate's Court, *Robert J. Cinimo*, knew beforehand that if disciplinary complaint were made to Presiding Appellate Division Justice *Milton Mollen*, based on the same allegations as previously made by *Vincent Berger*, Esq., he would transmit it to the Grievance Committee for the Ninth Judicial District, and accepted by it as Disciplinary Complaints from him and pursued with vengeance, as it was.

6. The "decision" of February 24, 1978, as it was described by Surrogate *Ernest L. Signorelli*, published in "hard print" by the *New York Law Journal* & Presiding Justice *Milton Mellon* was, as analyzed by *Doris L. Sassower*, Esq. in her response of March 28, 1978, not a "decision"! As she asserted (Exhibit "D"):

"It is a misnomer to refer to the complaint as a "Decision" or as an "Order", which implies some determination after hearing all sides. This was a "personal rampage" by the complainant under "color of authority" and in palpable abuse of his office, to denigrate me and others without affording the minimal requirements of due process or common decency.

I am not a party or an attorney for any party in this matter at present and have not been for some period of time. Nevertheless because my husband had pending a motion in the United States Court to prohibit the complainant from acting as Surrogate, and for invasion of his civil rights, the complainant, after refusing to recuse himself, went on this sua sponte diatribe.

There was no motion before the Court. There was no motion any longer before the Surrogate requesting that he recuse himself. There was no notice to me of an intention to charge me with any dereliction that might have forewarned me to submit papers in explanation and opposition so that a decision could be made on papers before the court. There was nothing resembling "due process" or fairness" or "decency" in form or substance.

Unfortunately since nothing was determined (except that he recused himself), and particularly since I am not a party or an attorney for any party in this action, I have nothing to appeal and am not legally aggrieved by any aspect of the Order."

7. As correctly asserted by *Doris L. Sassower*, Esq. had previously refused to recuse himself.

Consequently, *Geo. Sassower*, Esq. went to Federal Court, and after hearing the Assistant Attorney General on behalf of *Ernest L. Signorelli*, U.S. District Court Judge *Jacob Mishler*, signed an Order to Show Cause, returnable March 3, 1978 why an Order should not be entered (*Geo. Sassower v. Signorelli*, 78 Civ. 124 [EDNY-JM]) (Exhibit "E"):

- a. restraining defendants, ANTHONY MASTROIANNI and VINCENT G. BERGER, JR. from harassing plaintiff and those with whom plaintiff has business, professional, and social engagements pending the termination of this action.
 - b. restraining defendants, ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI, and VINCENT G. BERGER, JR. from prosecuting plaintiff for criminal contempt pending the determination of the appeal of ERNEST L. SIGNORELLI from the Judgment and Order which sustained plaintiff's Writ of Habeas Corpus.
 - c. restraining ERNEST L. SIGNORELLI from hearing or adjudicating any matter wherein your deponent is a party or an attorney.
 - d. compelling ERNEST L. SIGNORELLI and VIRGINIA D. MATHIAS to place in the custody of this Court the original stenographic minutes of the Surrogate's Court: Suffolk County with respect to the Estate of EUGENE PAUL KELLY, deceased, of January 25, 26, and 27, 1978, after same has been transcribed.
 - e. compelling the defendant, JOHN P. FINNERTY, to properly and timely serve the legal documents of the plaintiff...."
8. The allegations in the moving affidavit were not denied or controverted in any respect, included the assertion that:

"if the Judgment/Order of Mr. Justice GEORGE F.X. McINERNEY is reversed then the present Contempt proceedings against plaintiff cannot be sustained since it would constitute "Double Jeopardy" and thereby violative of the Constitution of the United States.

Consequently so long as the possibility exists that a reversal may occur, these defendants, ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI, and VINCENT G. BERGER, JR., should be restrained from proceeding on the Contempt renewal against your deponent."

9. With opposing papers due by February 20, 1978, and none received, because neither *Ernest L. Signorelli* nor his attorney could not articulate an opposition, four (4) days later, on February 24, 1978, *Ernest L. Signorelli sua sponte* issued his five (5) page "diatribe" wherein he "recused" himself - nothing more!

Except for Surrogate *Ernest L. Signorelli* & Presiding Justice *Milton Mollen*, no jurist has described the "rampage" of February 24, 1978 as a "decision" or "order", since it "decided" & "ordered" nothing!

Charge "III"

1. The "diatribe" of Surrogate *Ernest L. Signorelli* (Exhibit "B") states:
 "The petitioner failed to appear in court the following day, and a telephone communication was received by the court from the petitioner's wife, an attorney and his former counsel in this estate. She stated that Sassower could not appear because he was in the Appellate Division on another matter, but refused to identify the case or the particular department of the Appellate Division. A member of the court's staff called the First and Second Departments of the Appellate Division, and it was finally determined that Mr. Sassower was arguing a case in the Second Department that morning and that the counsel of record in that case was petitioner's wife."
2. The response of *Doris L. Sassower*, Esq. to this charge was (Exhibit "D"):
 "The other reference to me is that I allegedly "refused to identify the case or the particular Department of the Appellate Division in which Mr. Sassower was arguing a case". That is completely untrue. Here again the complainant has set forth matter wholly devoid of "due process", in substance or spirit. Apart from the question of whether such refusal, even if it occurred as alleged, rises to the level of misconduct worthy of disciplinary action, it should be noted that I did not speak to the Surrogate nor

he to me. Therefore, such allegations by him should plainly have been qualified with "on information and belief", "I understand" or words to similar effect in the absence of which personal knowledge would be inferred.

I did not refuse to give such details. I stated to Vincent G. Berger, Jr., Esq., attorney for the Public Administrator, in a conversation had by telephone while the Judge, he informed me, was on the bench, that such details were unknown to me.

At the time of such telephone call my entire basement was flooded, and I was preoccupied with saving as many of my personal belongings as possible. Nevertheless, almost immediately after hanging up, I looked at the Law Journal and recognized a case wherein I was attorney of record but which was being handled exclusively by Mr. Sassower. While I knew it was in the Appellate Division, I had no idea at the time of this unexpected call and unexpected inquiry from Mr. Berger that it was in that case that Mr. Sassower was engaged.

In any event immediately after ascertaining such fact, I called Mr. Berger and gave him that information. This was completely in accord with my conduct of complete cooperation with the complainant and his Court."

3. Chief Counsel *Gary L. Casella* is called upon to reveal what the records of the Ninth Judicial District Grievance Committee show were the replies of *Ernest L. Signorelli & Vincent G. Berger*, Esq. concerning this incident, the result of its investigation and what it stated about this matter in its petition for permission to prosecute *Doris L. Sassower*, Esq.!

Charge "IV"

1. The "diatribe" of Surrogate *Ernest L. Signorelli* (Exhibit "B") also states:
"Incidentally, Doris L. Sassower, the wife of the petitioner herein, had at the inception of this estate filed a notice of appearance, appearing as the attorney for the executor. She was expressly directed by the court to be present for the scheduled court conferences, but has defaulted in appearance for any of the said dates."

2. The response of *Doris L. Sassower*, Esq. to this charge was (Exhibit "D"):
"The dates of such conferences wherein I was supposedly directed to appear "as attorney for the executor" are set forth in a preceding paragraph as
"September 21st, 1976. ... (and) was adjourned on five separate occasions to March 2nd, 1977"

a. The complainant does not explain the necessity for my appearance as attorney for the executor when the very same complaint states that the executor was removed prior to every one of the aforementioned dates.

b. If my conduct was "extraordinary" (as described by the complainant), no explanation is set forth for his waiting one year before making this complaint.

c. Significantly, this undocumented complaint fails to allege that the matter was attended by someone else in my stead, the necessity for my personal appearance, that I was otherwise engaged in higher courts, that I was ill, that my absence caused no prejudice, that there were no adjournments because of my failure to appear, or that such directions to appear are generally on a preprinted form notice, honored in its breach (by everyone) rather than its observance (by anyone).

In order that this complaint may be responded to with accuracy and precision. I respectfully request the complainant through your committee to set forth:

a. The five (5) dates between September 21, 1976 that he has reference to.

b. A copy of the notices for each such dates.

c. The purpose of such conferences.

- d. The purpose of my desired attendance.
 - e. Who actually attended on such dates, or if same were adjourned, who requested the adjournment and the reason set forth.
 - f. The sum and substance of what transpired at such conference.
 - g. In what way my non-appearance prejudiced the Court, or the parties.
 - h. Whether anyone appeared in my stead and served the purpose intended by my appearance.
 - i. Why the complainant waited between one year and one and one-half years after my 'extraordinary conduct' to make such complaint, in other words what, if anything, has been done by me recently so that he has resurrected these old transactions and placed them in a form of a "published complaint."
- With such information, I will be better able to respond to the complaint herein."

3. There was no response to the questions posed by *Doris L. Sassower*, Esq. Instead, by reason of the "assurance" given by Presiding Justice *Milton Mollen*, the Grievance Committee for the Ninth Judicial District, after receiving permission from the Appellate Division, Second Department, with vengeance, prosecuted.

Charge "V"

1. Less than two (2) weeks after the issuance of the "diatribe" where Surrogate *Ernest L. Signorelli*, confronted by a pending motion in Federal Court, "recused" himself from the *Kelly Estate* litigation that, on March 8, 1978, Acting Surrogate *Harry E. Seidell*, signed an Order adjudging *Geo. Sassower*, Esq., to be in Criminal Contempt for his failure to appear in Surrogate's Court, Suffolk County, because he was on trial in Supreme Court, Bronx County.
2. This March 8, 1978, Criminal Contempt Order had the same lethal infirmity as did the Order of June 22, 1977 which everyone, including *Ernest L. Signorelli* did not deny was invalid. Acting Surrogate *Harry E. Seidell* was a specific recipient of the "diatribe" (Exhibit "B", p. 6).
3. In addition, because of pending appeal by *Ernest L. Signorelli* the Order of March 8, 1978 was void, because it also violated the "double jeopardy clauses of the *Constitution of the United States & State of New York*, which no one also never denied!
4. For four (4) months the Sheriff harassed *Geo. Sassower*, Esq. & his family by repeated forays from Suffolk County to Westchester County & New York City, looking for "*Geo. Sassower*, Fugitive from Justice" when he was willing to voluntarily surrender at Supreme Court, Westchester, Bronx or New York Counties.
5. On June 10, 1978, with a motion pending to enjoin the Sheriff of Suffolk County and his subordinates from exercising their official powers in Westchester County, two (2) Suffolk County Deputy Sheriffs traveled to Westchester County, shadowed him for several hours and when he was alone, arrested him and brought him to Suffolk County where he was incarcerated.
6. Later that day, *Doris L. Sassower*, Esq. of the earlier events secured a Writ of Habeas Corpus from NY Supreme Court Justice *Anthony J. Ferraro* of Westchester County, which released *Geo. Sassower*, Esq. "on his own recognizance" and had the Writ returnable at Westchester County.
7. *Doris L. Sassower*, Esq. traveled to Riverhead with our middle daughter to serve the Writ and when they did, they were themselves incarcerated.
8. While all three (3) Sassowers were incarcerated, the *Acting Warden* communicated with the *Sheriff*, who communicate with *Ernest L. Signorelli*, who communicated with *Anthony Prudenti* or someone on his behalf, who communicated with *Meade H. Esposito*, who communicated with *Milton Mellon*, who communicated with Mr. Justice *Anthony J. Ferraro*.

The purpose was to eliminate the “release” of *Geo. Sassower*, Esq., pending a “hearing” to change the “return” of the Writ from Westchester County to Suffolk County.

9. The request for these changes by Presiding Justice *Milton Mollen* to NY Supreme Court Justice *Anthony J. Ferraro* was rejected by Mr. Justice *Anthony J. Ferraro*, at which point, the *Sassower*'s were all released!

10. The initial evidence of the chain of events, including the attempt by Presiding Justice *Milton Mollen* to “*fix*” Mr. Justice *Anthony J. Ferraro* came from the open complaints of *Ernest L. Signorelli* that Presiding Justice *Milton Mollen* should have modified the Writ of Habeas Corpus himself, rather than attempt to “*fix*” Mr. Justice *Anthony J. Ferraro*.

Within days, about *every* jurist in the Second Department *knew* of this attempted “*fix*” by the Presiding Justice and acted accordingly.

* * *

The Presiding Justice having tolerated the publication of the disciplinary complaint against *Doris L. Sassower*, Esq. is estopped, legally & ethically, to the publication of this material.

* * *

The aforementioned is stated to be true under penalty of perjury.

Dated: White Plains, New York
April 23, 2012

GEORGE SASSOWER



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UNIFIED COURT SYSTEM
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A. GAIL PRUDENTI
Chief Administrative Judge

JOHN W. McCONNELL
Counsel

January 30, 2012

Mr. George Sassower
10 Stewart Place
White Plains, New York 10603-3856

Dear Mr. Sassower:

In response to your recent letter, please be advised that a search of our relevant files revealed no Judiciary § Law 35(a) filings responsive to your inquiry about:

For Puccini Clothes, Ltd.:
Lee Feltman
Karesh, Major & Farbman
Rashba & Pokart

For the Estate of Eugene Paul Kelly:
Vincent Berger
Irwin Klein
Richard C. Cahn
Ernest Ruck
John Marshal, Jr.

Very truly yours,

A handwritten signature in black ink, appearing to read "S. Kerby". The signature is fluid and cursive, written over a horizontal line.

Shawn Kerby
Assistant Deputy Counsel

SURROGATE'S COURT : SUFFOLK COUNTY

In the Matter of the Accounting of
GEORGE SASSOWER,
as Preliminary Executor of the Estate
of
EUGENE PAUL KELLY
Deceased.

DECISION

By: HON. ERNEST L. SIGNORELLI...
Surrogate

Dated: February 24, 1978

File # 736 P 1972

This is a contested accounting proceeding involving a relatively modest estate. Because of its unusual history the court is of the opinion that it would serve a constructive purpose to retrace the path of this estate since its inception.

The decedent, who expired on April 26, 1972, nominated in his will his attorney, George Sassower, as his executor, who filed a petition to probate the decedent's last will and testament on May 10, 1972. Objections to probate were filed and thereafter preliminary letters testamentary were issued to the petitioner on June 8, 1972. The objections to probate were ultimately settled, the will was admitted to probate on September 9, 1974, and letters testamentary were issued to the petitioner.

On November 13, 1974, a petition to compel the executor to account was filed with the court and citation issued returnable December 9, 1974. It was difficult to serve Sassower thereby necessitating the issuance of two supplemental citations. The court ultimately issued an order permitting service by substituted service after it became apparent that he was evading service of process. On the return date of the citation, namely March 17, 1975, Sassower defaulted and the court then issued an order dated March 27, 1975, ordering him to account.

Upon his failure to account, an order to show cause was then issued by my predecessor, Judge Hildreth, and made returnable on October 20, 1975, directing petitioner to show cause why he should not be removed as executor and punished for contempt of court because of his failure to obey the court's order of March 27th, 1975 directing him to account. At Sassower's request the said application was adjourned on three separate occasions, and was finally submitted to the court for decision on January 12th, 1976. By an order dated March 25th, 1976, Sassower was removed as fiduciary and determined to be in contempt of

EXHIBIT "B"

Decision

Estate of: Eugene Paul Kelly

court, but permitting him an additional thirty days from the date thereof to purge himself of the contempt by filing his account.

Mr. Sassower on April 15th, 1976 filed his account as preliminary executor with a petition for its judicial settlement for the period from April 26th, 1972 to September 9th, 1974. Although the citation was made returnable on June 8th, 1976, it was adjourned on a number of occasions and a supplemental citation was then issued returnable July 27th, 1976. After an additional adjournment to September 7th, 1976, jurisdiction was completed, objections filed and the matter was accordingly placed on the reserve trial and hearing calendar and scheduled for conference for September 21st, 1976. The matter was adjourned on five separate occasions to March 2nd, 1977.

On March 2nd, 1977, the guardian ad litem and counsel for a legatee filed objections to his account. The guardian ad litem and the attorney for the legatee had not filed objections sooner in the hope that a conference would result in a settlement of the proceeding.

Incidentally, Doris Sassower, the wife of the petitioner herein, had at the inception of this estate filed a notice of appearance, appearing as attorney for the executor. She was expressly directed by the court to be present for the scheduled court conferences, but has defaulted in appearance for any of the said dates.

On March 25th, 1977 the court issued an order appointing the Public Administrator, as temporary administrator, and on April 28th, 1977 Sassower who had been previously ordered removed as executor was then served in open court with a written order directing him to turn over to the Public Administrator all books, papers and other property of this estate in his possession and under his control on or before May 5th, 1977. On that day the matter was scheduled for trial on June 1st, 1977, and the parties were ordered to conclude their examinations before trial on May 2nd, 1977.

Mr. Sassower brought on a series of motions seeking a disqualification of the undersigned, the vacating of prior orders of this court dated March 27th, 1975 and March 9th, 1976, and an examination before trial of one of the objectants. All of the motions were denied except the application for the examination before trial. The party to be examined before trial, who incurred the loss of a days wages, appeared for the examination on the scheduled date, but Sassower defaulted in appearance.

In the interim, Sassower then filed appeals to the Appellate Division of the orders of this court dated March 25th, 1977 and April 28th, 1977, providing respectively for the appointment of the Public Administrator as temporary administrator and ordering him to turn over the estate's assets to the Public Administrator. The Appellate Division dismissed the said appeals by unanimous decision dated June 12th, 1977. The trial date, at petitioner's request, had been adjourned from June 1st, 1977 to June 15th, 1977.

Decision

Estate of: Eugene Paul Kelly

On the scheduled date for trial, counsel representing the Public Administrator advised the court that he could not proceed to trial because of Cassower's refusal to comply with the court's order of April 28th, 1977, directing him to turn over the assets of the estate to the Public Administrator. When questioned by the court, Cassower informed the court that he would not accede to the court's directive and when he was then advised by the court that he would be held in contempt of court, he relented and assured the court that he would comply and was granted an adjournment to June 22nd, 1977 for that purpose. He was directed to return on June 22nd, 1977 to insure his compliance therewith. On June 22nd, 1977, he failed to appear, and the court then conducted a hearing and, thereupon, determined that he had contumaciously failed to comply with the court's order to turn over the books, records and assets of the estate to the Public Administrator of Suffolk County. He was adjudged to be in contempt of court, and sentenced to thirty days to the county jail.

Pursuant to a warrant of commitment, he was apprehended by the Sheriff of Suffolk County on June 23rd, 1977, and brought before the court whereupon he was given an opportunity to purge himself of the contempt. When he persisted in his refusal to comply with the court's order, he was remanded to the Suffolk County Jail to serve his sentence. On the same day, he procured a writ of habeas corpus from a Justice of the Appellate Division, Second Department, who scheduled the matter for a hearing on the following day, June 24th, 1977, in the Suffolk County Supreme Court. The said Appellate Division Justice denied his application for bail. Later, that same day, he applied for and received another writ of habeas corpus from a Suffolk County Supreme Court Justice which contained a provision for bail. In both habeas corpus applications, he alleged that no previous application had been made for the relief requested.

Petitioner was released on bail on the second writ and a hearing was scheduled thereon. The hearing was ultimately conducted by Supreme Court Justice McInerney who then dismissed the court's contempt order on technical grounds without prejudice to a renewal of the contempt proceedings.

It is the contention of the undersigned that the said Supreme Court Justice preempted the function of the Appellate Division in choosing to act as an appellate court and reviewing the order of the Surrogate, a judge of coordinate jurisdiction. Since a proper and complete record had been, in fact, compiled in the Surrogate's Court the contemnor's sole recourse was to seek review of the contempt order by the Appellate Division. People v. Zweig 32 A.D. 2d 659, 300 N.Y.S. 2d 651; People v. Clinton 42 A.D. 2d 815, 346 N.Y.S. 2d 345; Waterhouse v. Celli 71 Misc. 2d 600, 336 N.Y.S. 2d 960.

As a result of the above decision, Cassower has, with impunity, continued to flaunt the orders of this court and severely hampered and unduly delayed the resolution of this estate at great

Decision

Estate of: Eugene Paul Kelly

harm and expense to the legatees and infant beneficiaries named in the will. He did successfully evade service of further process to adjudge him in contempt of court until served with a new contempt citation by counsel for the Public Administrator on the date the accounting trial was commenced.

In addition to the foregoing, Sassower's inexplicable conduct has affected other courts as well. He caused Justice Burstein of the Supreme Court, Nassau County to issue an order to show cause requesting the staying of a warrant of commitment allegedly issued by this court, without first verifying that the warrant of commitment had in fact been issued. The fact of the matter is that a warrant of commitment had not been issued and the order to show cause was consequently dismissed. Sassower then commenced a civil action in the Federal District Court against the undersigned, the Sheriff of Suffolk County, the Assistant Attorney General of the State of New York, and other attorneys and individuals involved in this estate. The said action was dismissed by the court, and Sassower then filed an appeal of the order of dismissal with the Second Circuit Court. During the pendency of this appeal Sassower saw fit to file a second suit essentially in duplication of the action which was dismissed.

On December 13th, 1977, the court scheduled this matter for pre-trial conference, and all parties appeared except for Sassower. The court then set the matter down for trial on January 25th, 1978, and directed that a final notice be sent to the petitioner advising him of the trial date and its peremptory marking.

On January 25th, 1978, all parties appeared for the trial. The issue of the petitioner's failure to comply with the court's order was once again raised, and in response to the court's question as to whether or not he had obeyed the order to turn the assets over to the Public Administrator, the petitioner refused to answer the question, claiming his Fifth Amendment privilege against self-incrimination and requested the opportunity to consult counsel. The court thereupon held in abeyance the question of his contempt of the court's order until the following day, pending his appearance with counsel. In the interim, the accounting trial was commenced and was continued to the following day. Prior to recessing for the day, the court directed Sassower to return the following morning at 9:30 to continue the trial, and to resolve the further question of his contemptuous conduct.

The petitioner failed to appear in court the following day, and a telephone communication was received by the court from the petitioner's wife, an attorney and his former counsel in this estate. She stated that Sassower could not appear because he was in the Appellate Division on another matter, but refused to identify the case or the particular department of the Appellate Division. A member of the court's staff called the First and Second Departments of the Appellate Division, and it was finally determined that Mr. Sassower was arguing a case in

Decision

Estate of: Eugene Paul Kelly

Hon. Milton Mollen, Presiding Justice
Appellate Division Second Department
45 Monroe Place
Brooklyn, New York 11201

Hon. Harry E. Seidell, Acting Surrogate
County Court
Criminal Courts Bldg.
Center Drive, South
Riverhead, New York 11901

Charles E. Abusa, Esq.
Attorney for Legatee
551 Fifth Avenue
New York, New York 10017

Ernest G. Wruck, Esq.
Guardian ad Litem
31 Oak Street
Patchogue, New York 11772

Siben & Siben, Esqs.
Attorneys for Claimant
90 East Main Street
Bay Shore, New York 11706

George Sassower, Esq. pro se
75 Wykagyl Station
New Rochelle, New York 10804

Vincent G. Berger Jr., Esq.
Attorney for Public Administrator
6351 Jericho Turnpike
Commack, New York 11725

Deris Sassower, Esq.
75 Wykagyl Station
New Rochelle, New York 10804

March 3, 1978

Honorable Ernest L. Signorelli
Surrogate Suffolk County
County Center
Riverhead, New York 11901

Re: Estate of Eugene Paul Kelly, deceased
File No. 736P 1972

Dear Surrogate Signorelli:

I am in receipt of a copy of your decision in the above stated matter, dated February 24, 1978, which decision alleges professional misconduct on the part of George Sassower and Doris Sassower, attorneys-at-law.

My office has contacted the Joint Bar Association Grievance Committee for the Ninth Judicial District and determined that the Committee is aware of the situation you described. Please be assured that appropriate action will be taken.

Thank you for bringing this matter to my attention.

Very truly yours,

MILTON MOLLEN
Presiding Justice

NINTH JUDICIAL DISTRICT
MAR 6 1978
GRIEVANCE COMMITTEE

Exhibit "C"

March 28, 1978

Joint Bar Association Grievance Committee
Ninth Judicial District
200 Bloomingdale Road
White Plains, New York 10605

Attention: Mr. Donald E. Humphrey

Re: File 999

Dear Mr. Humphrey:

1. The essence of the complaint of ERNEST L. SIGNORELLI against me is contained in a deceptive and misleading paragraph reading as follows:

" Incidentally, Doris L. Sassower, the wife of the petitioner herein, had at the inception of this estate filed a notice of appearance, appearing as attorney for the executor. She was expressly directed by the Court to be present for the scheduled court conferences, but has defaulted in appearance for any of the said dates."

The dates of such conferences wherein I was supposedly directed to appear "as attorney for the executor" are set forth in a preceding paragraph as

"(September 21, 1976 ... (and) was adjourned on five separate occasions to March 2nd, 1977."

a. The complainant does not explain the necessity for my appearance "as attorney for the executor" when the very same complaint states that the executor was removed prior to every one of the aforementioned dates.

b. If my conduct was "extraordinary" (as described by the complainant), no explanation is set forth for his waiting one year before making this complaint.

Exhibit *D*

Doris L. Sassower

Grievance Committee

Page 2

March 28, 1978

c. Significantly, this undocumented complaint fails to allege that the matter was attended by someone else in my stead, the necessity for my personal appearance, that I was otherwise engaged in higher courts, that I was ill, that my absence caused no prejudice, that there were no adjournments because of my failure to appear, or that such "directions" to appear are generally on a preprinted form notice, honored in its breach (by everyone) rather than its observance (by anyone).

In order that this complaint may be responded to with accuracy and precision, I respectfully request the complainant through your committee to set forth:

- a. The five (5) dates between September 21, 1976 that he has reference to.
- b. A copy of the notices for each such dates.
- c. The purpose of such conferences.
- d. The purpose of my desired attendance.
- e. Who actually attended on such dates, or if same were adjourned, who requested the adjournment and the reason set forth.
- f. The sum and substance of what transpired at such conference.
- g. In what way my non-appearance prejudiced the Court, or the parties.
- h. Whether anyone appeared in my stead and served the purpose intended by my appearance.
- i. Why the complainant waited between one year and one and one-half years after my "extraordinary conduct" to make such complaint, in other words what, if anything, has been done by me recently so that he has resurrected these old transactions and placed them in a form of a "published complaint."

Doris L. Sassower

Grievance Committee

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March 28, 1978

With such information, I will be better able to respond to the complaint herein.

2. It is a misnomer to refer to the complaint as a "Decision" or as an "Order", which implies some determination after hearing all sides. This was a "personal rampage" by the complainant under "color of authority" and in palpable abuse of his office, to denigrate me and others without affording the minimal requirements of due process or common decency.

I am not a party or an attorney for any party in this matter at present and have not been for some period of time. Nevertheless because my husband had pending a motion in the United States Court to prohibit the complainant from acting as Surrogate, and for invasion of his civil rights, the complainant, after refusing to recuse himself, went on this sua sponte diatribe.

There was no motion before the Court. There was no motion any longer before the Surrogate requesting that he recuse himself. There was no notice to me of an intention to charge me with any dereliction that might have forewarned me to submit papers in explanation and opposition so that a decision could be made on papers before the court. There was nothing resembling "due process" or "fairness" or "decency" in form or substance.

Unfortunately since nothing was determined (except that he recused himself), and particularly since I am not a party or an attorney for any party in this action, I have nothing to appeal and am not legally aggrieved by any aspect of the Order.

3. I believe completely in the philosophy set forth in the statute that all complaints against attorneys and judges be deemed confidential (e.g., Judiciary Law. §90(10)).

The incalculable injury and hurt that I have sustained from this published complaint justifies such philosophy.

Doris L. Sassower

Grievance Committee

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March 28, 1978

In violation of statute and certainly its spirit, the complainant, who is supposed to follow the law and its spirit, took advantage of his office evidently believing that an emolument of his office is his right to publically disparage persons not before him.

I believe that it is the function of your committee not only to investigate complaints, but to protect those accused before your committee. I request that if you find that there have been transgressions by the complainant that you refer same to the proper investigatory body.

I do not deny complainant the right to make complaints before your committee in any way, but I do not believe that he has the right to broadcast such complaint to the profession at large as he has done (New York Law Journal 3/3/78. pp 12-13) prior to any affirmative finding that disciplinary action was warranted.

4. The other reference to me is that I allegedly "refused to identify the case or the particular Department of the Appellate Division in which Mr. Sassower was arguing a case". That is completely untrue. Here again the complainant has set forth matter wholly devoid of "due process", in substance or spirit. Apart from the question of whether such refusal, even if it occurred as alleged, rises to the level of misconduct worthy of disciplinary action, it should be noted that I did not speak to the Surrogate nor he to me. Therefore, such allegations by him should plainly have been qualified with "on information and belief", "I understand" or words to similar effect in the absence of which personal knowledge would be inferred.

I did not refuse to give such details. I stated to Vincent G. Berger, Jr., Esq., attorney for the Public Administrator, in a conversation had by telephone while the Judge, he informed me, was on the bench, that such details were unknown to me.

At the time of such telephone call my entire basement was flooded, and I was preoccupied with saving as

Doris L. Sassower

Grievance Committee

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March 28, 1978

many of my personal belongings as possible. Nevertheless, almost immediately after hanging up, I looked at the Law Journal and recognized a case wherein I was attorney of record but which was being handled exclusively by Mr. Sassower. While I knew it was in the Appellate Division, I had no idea at the time of this unexpected call and unexpected inquiry from Mr. Berger that it was in that case that Mr. Sassower was engaged.

In any event immediately after ascertaining such fact, I called Mr. Berger and gave him that information. This was completely in accord with my conduct of complete cooperation with the complainant and his Court.

I shall await further communication from you with the answers to the questions I have requested from the Surrogate. Please be assured of my willingness to be of all possible assistance to the Committee.

Very truly yours,



DORIS L. SASSOWER

DLS/mg

(1) 7

RECEIVED

'78 FEB 8 PM 2:

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
GEORGE SASSOWER,

Plaintiff,

-against-

ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI,
VINCENT G. BERGER, JR., JOHN P. FINNERTY,
ALLEN KROOS, ANTHONY WISNOSKI, and LEONARD
J. PUGATCH,

Defendants.
-----X

DEPT. OF LAW
STATE OF N.Y.
Laus J. Leffromtz

File No.
78 C 124
(J.M.)

Upon reading and filing the annexed affidavit of
GEORGE SASSOWER, Esq., duly sworn to on the 6th day of
February, 1978, it is

ORDERED, that the defendants, ERNEST L. SIGNORELLI,
ANTHONY MASTROIANNI, VINCENT G. BERGER, JR., JOHN P. FINNERTY,
and also VIRGINIA D. MATHIAS, show cause before this Court
in Courtroom 5, at the United States Courthouse, 225 Cadman
Plaza East, in the Borough of Brooklyn, City and State of
New York, on the ^{March} 3rd day of February, 1978, at 11:30 o'clock
in the fore noon of that day or as soon thereafter as Counsel
may be heard why an Order should not be entered

- a. restraining defendants, ANTHONY MASTROIANNI and
VINCENT G. BERGER, JR. from harassing plaintiff and those
with whom plaintiff has business, professional, and social
engagements pending the termination of this action.
- b. restraining defendants, ERNEST L. SIGNORELLI,
ANTHONY MASTROIANNI, and VINCENT G. BERGER, JR. from prosecuting
plaintiff for criminal contempt pending the determination of
the appeal of ERNEST L. SIGNORELLI from the Judgment and Order
which sustained plaintiff's Writ of Habeas Corpus.
- c. restraining ERNEST L. SIGNORELLI from hearing or
adjudicating any matter wherein your deponent is a party or
an attorney.

ELLHUR

d. compelling ERNEST L. SIGNORELLI and VIRGINIA D. MATHIAS to place in the custody of this Court the original stenographic minutes of the Surrogate's Court: Suffolk County with respect to the Estate of EUGENE PAUL KELLY, deceased, of January 25, 26, and 27, 1978, after same has been transcribed.

e. compelling the defendant, JOHN P. FINNERTY, to properly and timely serve the legal documents of the plaintiff.

f. together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.

SUFFICIENT CAUSE having been shown therefore, let copies of this Order together with copies of the papers upon which it was based be served upon such defendants and VIRGINIA D. MATHIAS in the same manner as a summons may be served in this Court by anyone over the age of 18, including the plaintiff, on or before the *28th* day of February, 1978 *at a before 4:00 P.M.* be deemed good and sufficient service and additionally a copy of the Order to Show Cause dated January 27, 1978 and the affidavit upon which it was based be served at the same time on the defendants, ANTHONY MASTROIANNI and VINCENT G. BERGER, JR. be deemed good and sufficient service.

Dated: Brooklyn, New York
February *8*, 1978
at *10:05*.M.


UNITED STATES DISTRICT JUDGE.