

To be submitted.

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION:FOURTH DEPARTMENT

-----X

GEORGE SASSOWER,

Plaintiff-Appellant,

-against-

NEW YORK NEWS, INC., ANTHONY  
MASTROIANNI, JOHN P. FINNERTY,  
ALAN CROCE and ANTHONY GRZYMALSKI,

Suffolk County Clerk's  
Index No. 78-17671

New York County Clerk's  
Index No. 5774/83

Defendants-Respondents,

-and-

ERNEST L. SIGNORELLI, et al.,

Defendants.

-----X

BRIEF FOR DEFENDANTS-RESPONDENTS  
ANTHONY MASTROIANNI, JOHN P. FINNERTY,  
ALAN CROCE AND ANTHONY GRZYMALSKI  
("Suffolk County Defendants")

Respectfully submitted,

MARTIN B. ASHARE, ESQ.  
County Attorney of Suffolk County  
By: REISMAN, PEIREZ & REISMAN  
Of Counsel  
1301 Franklin Avenue  
Garden City, New York 11530  
(516) 746-7799

Of Counsel:  
Robert M. Calica

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION:FOURTH DEPARTMENT

-----X

GEORGE SASSOWER,

Plaintiff-Appellant,

-against-

NEW YORK NEWS, INC., ANTHONY  
MASTROIANNI, JOHN P. FINNERTY,  
ALAN CROCE and ANTHONY GRZYMALSKI,

Defendants-Respondents,

-and-

ERNEST L. SIGNORELLI, et al.,

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Suffolk County Clerk's  
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BRIEF FOR DEFENDANTS-RESPONDENTS  
ANTHONY MASTROIANNI, JOHN P. FINNERTY,  
ALAN CROCE AND ANTHONY GRZYMALSKI  
("Suffolk County Defendants")

Preliminary Statement

In a case virtually unprecedented for its procedural complexity and fragmentation, all attributable to the macabre, vexatious and disengenuous litigation tactics of plaintiff-appellant George Sassower, this Court is required to pass upon the propriety of certain procedural rulings rendered by a Justice sitting in Special Term, in the Supreme Court, Suffolk County, because of the Second Department's sua sponte transfer of this case to the Fourth Department (see order of the Appellate Division, Second Department dated March 21, 1983, Appendix A hereto).

That sua sponte transfer resulted after plaintiff-appellant Sassower had repeatedly moved on prior appeals to compel the Second Department to recuse itself, moved to compel the disclosure of communications among the Justices of that court and others, and literally sued the Second Department itself in Westchester County Supreme Court for monetary damages, in connection with an appeal in which the court had actually ruled in plaintiff's favor. (Sassower v. Signorelli, 65 A.D.2d 756).

Venue of the underlying proceeding, described hereafter, has, in the interim, been transferred to New York County Supreme Court upon plaintiff's motion.

At issue, so far as the "Suffolk County defendants" are concerned (Anthony Mastroianni, the Public Administrator, John P. Finnerty, the Sheriff, and Alan Croce and Anthony Grzymalski, deputy Sheriffs) are the propriety of two orders of the Supreme Court, Suffolk County (Hon. Frank DeLuca, J.) dated November 5, 1982 and February 23, 1983 which, so far as are pertinent here, denied plaintiff's motion to compel the Suffolk County defendants to respond to interrogatories, or to impose sanctions against them for their failure to do so. Because interrogatories are flatly prohibited in a case, as here, where the plaintiff had previously demanded, and received, a bill of particulars (CPLR 3130), the denial of that branch of his motion was well-founded, and deserves little of this court's attention upon the present appeal.



Nevertheless, we briefly trace the origins of this matter and, pursuant to leave granted by this Court's recent order (dated March 6, 1984), supply pertinent documents omitted from plaintiff's appendix.

#### Background and Prior Proceedings

This, and a multitude of related actions and proceedings, have been brought by attorney-plaintiff George Sassower against public officials, judges and justices of the courts, attorneys for the various parties herein, and others, all arising out of his efforts to set aside his conviction for criminal contempt before Acting Suffolk County Surrogate Harry Seidell. That contempt judgment, which has never been stayed or overturned, stemmed from charges that Mr. Sassower, as removed executor, failed to turnover the books, records, and other property of an estate probated in Suffolk County Surrogate's Court (the Estate of Eugene Paul Kelly). In addition to twice-unsuccessful actions brought in the Federal courts under the Civil Rights Statute (42 U.S.C. §1983) to challenge the lawfulness of those contempt proceedings, and his resultant arrest and incarceration by Suffolk County Sheriff's officials in pursuance of a duly issued warrant of commitment, and despite the affirmance of the dismissals of his Federal civil rights actions by the United States Circuit Court of



Appeals for the Second Circuit, Sassower simultaneously pursued parallel claims in this and in several other State court proceedings. He sought to challenge virtually every aspect of the proceedings against him, suing the Suffolk County Surrogate and Acting Surrogate, the Public Administrator, Sheriff and Sheriff's deputies, counsel for the Public Administrator, the reporters of the proceedings against him, the Appellate Division, Second Department itself, and others.

It would be unfeasible to fully chronical, or to set forth in full appendix form, the details of the myriad, fragmented and confusing proceedings which plaintiff Sassower has initiated, as part of his seven year long campaign to stampede his adversaries and the court system. We merely summarize the pertinent reported decisions here, and in those related proceedings, as they bear upon any discretionary issues to be considered upon this appeal:

(a) Plaintiff Sassower, an attorney, was adjudged to be in criminal contempt by a judgment of the Surrogate's Court, Suffolk County dated March 8, 1978 (Hon. Harry Seidell, Acting Surrogate), granted following an evidentiary hearing on March 7, 1978 at which Sassower, despite written notice of the charges, and written notice of the hearing date, defaulted in appearing. His habeas corpus proceeding to collaterally attack the lawfulness of that conviction was thereafter dismissed by order and judgment (one paper) of

the Supreme Court, Suffolk County dated February 10, 1981 (Hon. James Gowan, J.). The dismissal of plaintiff's habeas corpus proceeding has never been reversed, although the Appellate Division, Second Department (People ex rel. George Sassower v. Sheriff of Suffolk County, 96 A.D.2d 585, 465 N.Y.S.2d 543) has ordered Sassower's appeal therefrom "held in abeyance", pending a remand to the trial justice to determine whether or not, under the circumstances of the case, Sassower's default in appearing at his contempt trial was excusable, or a voluntary waiver of his rights. Parenthetically, without availing himself of that remand, Sassower has not only attempted improper appeals to the Court of Appeals from that non-final determination, he has also brought a writ of prohibition against the Second Department to restrain that remand, a proceeding now pending before the First Department, by reason of a sua sponte transfer of the prohibition application there;

(b) In the intervening years since his criminal contempt conviction, Sassower brought two separate actions in the United States District Court for the Eastern District of New York under the Civil Rights Act (42 U.S.C. §1983), seeking, inter alia, to recover damages against the Suffolk County Surrogate and Acting Surrogate (defendant Signorelli and Seidell), the Sheriff (defendant Finnerty), his deputies (defendants Croce and Grzymalski), and the Public Administrator (defendant Mastroianni), upon grounds virtually identical

to those here. Both actions were flatly dismissed by the District Court (Hon. Jacob Mishler, J.), and plaintiff's application to further amend his complaint in those dismissed actions was denied. Both dismissals, on the merits, were affirmed by the United States Circuit Court for the Second Circuit by order dated December 19, 1978 (Appendix B hereto);

(c) Sassower's duplicative and unceasingly vexatious litigation tactics are best described by a recent holding by the Appellate Division, Second Department dated March 5, 1984 (a copy of the per curiam opinion of that court is annexed as Appendix C hereto). Referring to closely related litigation brought by plaintiff George Sassower, and his attorney-wife Doris Sassower, against Surrogate Signorelli in Westchester County, Supreme Court, the Second Department unanimously affirmed an order enjoining Sassower from instituting any further actions or proceedings in any New York State court based upon Sassower's handling of the Kelly estate, stating:

"This appeal is the latest in a series of frivolous and repetitious claims, motions, petitions, collateral proceedings and appeals arising from rulings of defendant, the Surrogate of Suffolk County which required plaintiff George Sassower to account for his activities as fiduciary. We affirm the order insofar as appealed from, and utilize the opportunity to caution these plaintiffs [George Sassower, Doris Sassower and Carey Sassower] ... that this court will not tolerate the use of the legal system as a tool of harassment.

\* \* \*

Nonetheless, a litigious plaintiff pressing a frivolous claim can be extremely costly to the defendant and can waste an enormous amount of



court time, time that this court and the trial courts can ill afford to lose.... Thus, when, as here, a litigant is abusing the judicial process by hagridding individuals out of ill will or spite, equity may enjoin such vexatious litigation (citing cases).

That plaintiffs are attorneys does not bar the issuance of an injunction.... Indeed, attorneys who participate in such a manipulation of the legal process are subject to strong disciplinary sanctions. (citing authorities).

In short, Special Term acted properly in putting an end to plaintiffs' badgering of the defendant and the court system."

It is in this context that we address so much of the orders under review as correctly denied Sassower's application to compel the Suffolk County defendants to respond to interrogatories, notwithstanding that plaintiff had sought, and obtained, a bill of particulars.

#### ARGUMENT

#### SPECIAL TERM CORRECTLY DENIED THAT BRANCH OF PLAINTIFFS' MOTION SEEKING TO COMPEL THE SUFFOLK COUNTY DEFENDANTS TO RESPOND TO PLAINTIFFS' INTERROGATORIES

The legal issue posed by this appeal, insofar as the Suffolk County defendants are concerned, is simple, straightforward, and is dispositively disposed of by the language of CPLR 3130 itself, which clearly and unambiguously states:

"After commencement of an action, any part of may be served upon any other party written interrogatories. A party may not serve written interrogatories on another party and also demand a bill of particulars pursuant to section 3041 ...." (emphasis supplied)

Despite the clear command of CPLR 3130, plaintiff Sassower served a set of written interrogatories upon the Suffolk County defendants, notwithstanding, as their answering papers demonstrated below, that he had previously sought and obtained a bill of particulars in the case.

As the answering affirmation of the Assistant Suffolk County Attorney demonstrated below, Sassower had earlier demanded a bill of particulars in the case (Appendix D hereto), and following motions concerning its propriety, received such a bill of particulars from them (Appendix E hereto) [pertinently, these documents were omitted from plaintiff's appendix herein].

In addition, the answering affirmation of the Assistant Suffolk County Attorney demonstrated the utter 'impropriety of virtually all of the interrogatories propounded:

(a) The answering affirmation cited the prohibition of CPLR 3130 against the use of interrogatories where, as here, a bill of particulars had previously been sought and furnished;

(b) The answering papers demonstrated well-founded objections thereto, since interrogatories 1 to 5 exclusively concern the authority and jurisdiction of the Suffolk County Sheriff and his deputies to execute formal court mandates outside of Suffolk County. That issue had already been

dispositively determined in defendants' favor by the United States Circuit Court of Appeals, for the Second Circuit (Appendix B hereto):

"In particular, the Sheriff and deputy sheriffs acted with reasonable grounds to believe they were authorized to execute the arrest warrant pursuant to its terms in Westchester County. The process of the Suffolk County Surrogate's Court, including an arrest warrant, N.Y. Judiciary Law §756 (McKinney 1978) extends statewide ... and the Sheriff and deputy sheriffs are obligated to execute the mandate issued by the Surrogate of Suffolk County according to its command ....)"

Interrogatories concerning that subject were thus clearly unfounded;

(c) The answering papers also carefully detailed other well-grounded objections to the remainder of the interrogatories, demonstrating either their lack of relevance, or their concern with matters within the personal knowledge of the plaintiff, or seeking public documents otherwise routinely available to plaintiff, or requiring deputy Sheriff Grzymalski to waive the doctor-patient privilege in a case where he has not placed his medical condition in issue.

At most, plaintiff Sassower could argue, as he does here, that objections to the interrogatories were not made within 10 days, as ordinarily required by CPLR 3133, having been raised in an answering affidavit dated barely 27 days after the interrogatories were served.

We respond as follows:



a. The leading Treatise, 3A Weinstein-Korn-Miller, N.Y. Civil Practice, §3133.01 states:

"Under CPLR 3103, the court has the power to extend the time ... to object if the interrogatories are complicated or numerous."

b. Similarly, the discussion and authorities treated as §3103.09 of the Treatise make clear that relief against the use of clearly improper disclosure remedies will not be considered time-barred, and that the courts retain broad discretionary power to grant protective relief where prejudice will otherwise result from the unrestricted enforcement of such disclosure devices.

In the context of the prior proceedings in this case, this court can scarcely doubt that a proper discretionary basis to consider the Suffolk County defendants' objections to plaintiff's palpably improper interrogatories existed, notwithstanding that those objections were raised in an affidavit served 27 days, rather than 10 days, after the interrogatories themselves were served. All the more is this so where, as here, the answering papers below otherwise clearly demonstrated the impermissible use and scope of the interrogatories at bar.

Finally, we address plaintiff's argument that Justice DeLuca, in the first order under review, incorrectly ascribed his denial of sanctions against the Suffolk County defendants upon the basis that interrogatory responses (rather than a bill of particulars) had been furnished. The

second order corrected that inadvertence, by simply denying the motion to impose sanctions.

It is a familiar principle of appellate practice that this Court is empowered to affirm the orders under review for reasons other than those assigned by Special Term, Ward v. Hasbrouck, 169 N.Y. 407; Wille v. Maier, 256 N.Y. 465; Celeste v. State, 15 A.D.2d 593, 221 N.Y.S.2d 775.

Consequently, no warrant to disturb Special Term's orders is occasioned by the incorrect ground initially ascribed by Justice DeLuca for his denial of relief against the Suffolk County defendants.

#### Conclusion

So much of the orders of the Supreme Court, Suffolk County dated November 5, 1982 and February 23, 1983 (Hon. Frank DeLuca, J.) as denied the imposition of sanctions against the Suffolk County defendants for their failure to respond to plaintiff's improperly interposed interrogatories should be affirmed.

Respectfully submitted,

MARTIN B. ASHARE, ESQ.  
County Attorney of Suffolk County  
By: REISMAN, PEIREZ & REISMAN  
Of Counsel  
1301 Franklin Avenue  
Garden City, New York 11530  
(516) 746-7799

Of counsel:  
Robert M. Calica

APPENDIX A



HON. VINCENT D. DAMIANI, Justice Presiding,  
HON. GUY J. MANGANO,  
HON. FRANK A. GULOTTA,  
HON. RICHARD A. BROWN.

} Associate Justices

-----X

George Sassower, :

Plaintiff-appellant, :

v. : Order

New York News, Inc., Anthony Mastroianni, :  
John P. Finnerty, Alan Croce and Anthony :  
Grymalski, :

Defendants-respondents, :

and :

Ernest L. Signorelli, Vincent G. Berger, :  
Jr., Charles Brown, Harry E. Seidell, and :  
Virginia Mathias, :

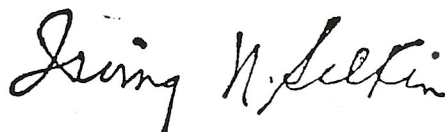
Defendants. :

-----X

In the above entitled action, and on the court's own motion, it is

ORDERED that the appeal from the Supreme Court, Suffolk County, in the above entitled action, from an order dated November 5, 1982 and February 23, 1983, is hereby transferred to the Appellate Division, Fourth Judicial Department.

Enter:



Clerk of the Appellate Division

APPENDIX B

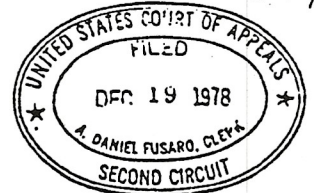
## United States Court of Appeals

SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals, in and for the Second Circuit, held at the United States Court House, in the City of New York, on the nineteenth day of December, one thousand nine hundred and seventy-eight.

Present: HONORABLE HENRY J. FRIENDLY,  
HONORABLE WALTER R. MANSFIELD,  
HONORABLE THOMAS J. MESKILL,

Circuit Judges.



GEORGE SASSOWER,  
Plaintiff-Appellant,

Docket No. 77-7511

-against-

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

Action #1

Defendants-Appellees.

GEORGE SASSOWER, individually, and on  
behalf of all others similarly situated,  
Plaintiff-Appellant,

-against-

ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI,  
VINCENT G. BERGER, JR., JOHN P. FINNERTY,  
ALLAN CROCE, ANTHONY GRZYMALSKI, CHARLES  
BROWN, LEONARD J. PUGATCH, HARRY E.  
SEIDELL, and THE COUNTY OF SUFFOLK,

Action #2

Defendants-Appellees.

Upon these two appeals from (1) the Memorandum of Decision and Order of the Eastern District of New York, dated September 20, 1977, Jacob Mishler, Chief Judge, and judgment pursuant thereto dismissing with prejudice plaintiff-appellant's complaint in action No. 77-C-1447, and (2) the Memorandum of Decision and Order of the Eastern District of New York, dated March 21, 1978, Jacob Mishler, Chief Judge, denying plaintiff's application for preliminary injunctive relief and the order and judgment of the same court dated April 20, 1978, dismissing with prejudice plaintiff's complaint in action No. 78-C-124, the orders and judgments of the district court in both actions are affirmed.

The actions, insofar as they seek to enjoin proceedings in the Surrogate's Court of Suffolk County, New York, NY, fail to satisfy the threshold "actual case or controversy" requirement of Article III of the Constitution imposed upon those seeking to invoke federal jurisdiction. See *O'Shea v. Littleton*, 414 U.S. 488 (1974). No immediate threat to the plaintiff-appellant from the alleged illegal or partisan appointment of administrators by the Surrogate's Court is alleged. Plaintiff-appellant's application for a stay of incarceration pending appeal from the state court's adjudication holding him in criminal contempt must be dismissed as moot, in view of the state court's annulment of the contempt adjudication and its release of plaintiff-appellant on bail.




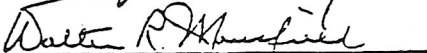
The district court did not abuse its discretion in refusing to enjoin the state court criminal contempt proceedings, in view of the availability of the state court as the forum for adjudication of the issues raised by plaintiff-appellant with respect to those proceedings and plaintiff's actual invocation of state court procedures. See Judice v. Vail, 430 U.S. 327 (1977).


Plaintiff-appellant's damage claims against Surrogate Signorelli, Acting Surrogate Seidell, Public Administrator Mastroianni, Suffolk County Sheriff Finnerty, Assistant Attorney General Pugatch, and Deputy Sheriffs Croce and Grzymalski, to the extent that the claims are based upon acts committed in the performance of their official public duties as part of the judicial process, were properly dismissed on the ground that these defendants are immune from suit founded on such conduct. Stump v. Sparkman, 435 U.S. 349 (1978); Imbler v. Pachtman, 424 U.S. 409 (1976); Pierson v. Ray, 386 U.S. 547, 555-57 (1967); Lockhart v. Hoenstine, 411 F.2d 455, 460 (3d Cir.), cert. denied, 396 U.S. 941 (1969).

In particular, the sheriff and deputy sheriffs acted with reasonable grounds to believe that they were authorized to execute the arrest warrant pursuant to its terms in Westchester County. The process of the Suffolk County Surrogate's Court, including an arrest warrant, N.Y. Judiciary Law §757 (McKinney, 1978), extends statewide, N.Y. Constitution, Art. 6, §1c; N.Y. Surrogate's Court Procedure Act §212 (McKinney, 1978), and the sheriff and deputy sheriffs are obligated to execute the mandate issued by the Surrogate of Suffolk County according to its command, N.Y.C.P.L.R. §2223 (McKinney, 1978); N.Y. Public Officers Law §72-a (McKinney, 1978). See Lockhart v. Hoenstine, 411 F.2d 455, 460 (3d Cir.), cert. denied, 396 U.S. 941 (1969). All other alleged acts, such as failure of the sheriff to serve process at appellant's request, fail to state a claim for relief under 42 U.S.C. §1983.

The allegations against the defendants Vincent G. Berger, Jr., Charles Brown and the County of Suffolk fail to state facts indicating any claim upon which relief might be granted. An allegation, for instance, that Brown, a former Suffolk County employee, embarrassed plaintiff-appellant by exhibiting a "spurious badge or shield" and by loitering and annoying those with whom plaintiff has business relations is wholly insufficient, as are the vague and conclusory allegations with respect to Berger and the County of Suffolk, see Conley v. Gibson, 355 U.S. 41, 45-46 (1957); Williams v. Vincent, 508 F.2d 541, 543 (2d Cir. 1974).

  
Henry J. Friendly, U.S.C.J.

  
Walter R. Mansfield, U.S.C.J.

  
Thomas J. Meskill, U.S.C.J.

APPENDIX C

1556S  
00640  
X/jl

March 5, 1984

SUPREME COURT : APPELLATE DIVISION  
SECOND JUDICIAL DEPARTMENT

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TITONE, J.P., GIBBONS, WEINSTEIN and RUBIN, JJ.  
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GEORGE SASSOWER, et al.,

Appellants,

- against -

ERNEST L. SIGNORELLI,

Respondent.  
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APPEAL by plaintiffs, as limited by their brief, from so much of an order of the Supreme Court at Special Term (MATTHEW F. COPPOLA, J.), entered January 21, 1983 in Westchester County, as (a) dismissed their complaint, (b) enjoined them from instituting further actions or proceedings in any New York State court based upon incidents relating to the Matter of Eugene Paul Kelly, and (c) denied their cross motion to disqualify Robert Abrams as defendant's attorney.

George Sassower and Doris L.  
Sassower, White Plains, N.Y.,  
appellants pro se.

Robert Abrams, Attorney-General,  
New York, N.Y. (Jeffrey I. Slonim,  
Melvyn R. Leventhal and Caren S.  
Brutten of counsel), for  
respondent.

P E R C U R I A M. This appeal is the latest in a series of frivolous and repetitious claims, motions, petitions, collateral proceedings and appeals arising from the rulings of the defendant, the Surrogate of Suffolk County, which required plaintiff George Sassower to account for his activities as a fiduciary. We affirm

the order insofar as appealed from, and utilize the opportunity to caution these plaintiffs, as well as others, that this court will not tolerate the use of the legal system as a tool of harassment.

The underlying suit seeks to recover damages for alleged tortious conduct on the part of the defendant. A prior complaint, which sought almost identical relief, was previously dismissed (see Sassower v Signorelli, 96 AD2d 585). Quite aside from the doctrine of issue preclusion, barring the commencement of a second separate action arising out of the same continuum of facts (e.g., Hyman v Hillelson, 55 NY2d 624; O'Brien v City of Syracuse, 54 NY2d 353, 357-358; Smith v Russell Sage Coll., 54 NY2d 185, 192-193; Pappalardo v Good Samaritan Hosp., \_\_\_ AD2d \_\_\_ [2d Dept., Nov. 28, 1983]), since we have held that the defendant was acting in a judicial capacity, he is absolutely immune from suit (see, e.g., Stump v Sparkman, 435 US 349; Levy v State of New York, 58 NY2d 733; cf. Park Knoll Assoc. v Schmidt, 59 NY2d 205, 209).

Nor is there any merit to the plaintiffs' contention that the Attorney-General should be disqualified from representing the defendant. The Attorney-General, by statute (Executive Law, § 63, subd 1), is "required to represent" him (Warren v Goldstein, 200 Misc 194, 195 [STEUER, J.]).

We now turn to the question of whether Special Term acted properly in enjoining plaintiffs from instituting further actions or proceedings in connection with this matter. We hold in the affirmative.

To be sure, public policy mandates free access to the courts and zealous advocacy is an essential component of our legal system (Board of Educ. v Farmingdale Classroom Teachers Assn., Local 1889, AFT AFL-CIO, 38 NY2d 397, 404; Burt v Smith, 181 NY 1) and, ordinarily, the doctrine of former adjudication will serve as an adequate remedy against repetitious suits.

Nonetheless, a litigious plaintiff pressing a frivolous claim can be extremely costly to the defendant and can waste an inordinate amount of court time, time that this court and the trial



courts can ill afford to lose (see Harrelson v United States, 613 F2d 114). Thus, when, as here, a litigant is abusing the judicial process by hagridding individuals solely out of ill will or spite, equity may enjoin such vexatious litigation (e.g., Matter of Hartford Textile Corp., 681 F2d 895, 897, cert den sub nom Shuffman v Hartford Textile Corp., \_\_\_ US \_\_\_, 103 S Ct 1195; Muka v New York State Bar Assn., 120 Misc 2d 897, 903-905, and authorities cited therein; see, also, Wood v Santa Barbara Chamber of Commerce, 705 F2d 1515, 1524-1525; Pavilonis v King, 626 F2d 1075, cert den 449 US 829; Heritage Hills Fellowship v Plouff, 555 F Supp 1290, 1298; Martin - Trigona v Brooks & Holtzman, 551 F Supp 1378 [WEINFELD, J.]).

That plaintiffs are attorneys does not bar the issuance of an injunction (Matter of Hartford Textile Corp., supra). Indeed, attorneys who participate in such manipulation of the legal process are subject to strong disciplinary sanctions (see Code of Professional Responsibility, DR 7-102, subd [A], par [1]; Matter of Lee, 86 AD2d 131).

In short, Special Term acted properly in putting an end to plaintiffs' badgering of the defendant and the court system. For the reasons stated, the order should be affirmed insofar as appealed from, with costs.

TITONE, J.P., GIBBONS, WEINSTEIN and RUBIN, JJ., concur.

1550S  
X/jl

VITO J. TITONE, J.P.  
DAVID T. GIBBONS  
MOSES M. WEINSTEIN  
ISAAC RUBIN, JJ.

AD2d

A - January 10, 1984

2434 E

Doris L. Sassower et al.,  
respondents, v Ernest L.  
Signorelli, appellant, et al.,  
defendants.

Robert Abrams, Attorney-General, New York, N.Y. (Stephen M. Jacoby, Melvyn R. Leventhal and Stanley A. Camhi of counsel), for appellant.

Doris L. Sassower, White Plains, N.Y. (George Sassower of counsel), respondent pro se and for respondent Carey A. Sassower.

In an action to recover damages for (1) the denial of plaintiffs' right to visit an incarcerated individual in the Suffolk County Jail, (2) the unlawful detention of plaintiffs, (3) the harassment of plaintiff Doris Sassower, and (4) the publication of a decision and order of defendant Surrogate SIGNORELLI, said defendant appeals, as limited by his notice of appeal and brief, from so much of an order of the Supreme Court, Westchester County (COPPOLA, J.), entered January 24, 1983, as denied his cross motion for summary judgment dismissing the complaint as to him.

Order reversed insofar as appealed from, on the law, with costs, defendant SIGNORELLI's cross motion for summary judgment is granted, and plaintiffs' complaint is dismissed as to said defendant.

The conduct of appellant which forms the basis of the complaint as against him occurred in his capacity as a Judge in the course of judicial proceedings. As such, he is entitled to judicial immunity (see Sassower v Finnerty, 96 AD2d 585) and his cross motion for summary judgment should have been granted.

TITONE, J.P., GIBBONS, WEINSTEIN and RUBIN, JJ., concur.

March 5, 1984

SASSOWER v SIGNORELLI

2434 E

1555S  
X/jl

VITO J. TITONE, J.P.  
DAVID T. GIBBONS  
MOSES M. WEINSTEIN  
ISAAC RUBIN, JJ.

A - January 10, 1984

\_\_\_\_\_ AD2d \_\_\_\_\_  
1281 E

George Sassower, et al.,  
appellants, v Ernest L.  
Signorelli, respondent. (Action  
No. 1)

Doris L. Sassower, et al.,  
appellants, v Ernest L.  
Signorelli, respondent, et al.,  
defendants. (Action No. 2)

George Sassower and Doris L. Sassower, White Plains, N.Y.,  
appellants pro se and for appellant Carey A. Sassower.

Robert Abrams, Attorney-General, New York, N.Y. (Jeffrey I.  
Slonim, Melvyn R. Leventhal and Caren S. Brutton of  
counsel), for respondent.

Order of the Supreme Court, Westchester County (COPPOLA, J.),  
entered February 1, 1983, affirmed, with costs (see Sassower v  
Signorelli, \_\_\_AD2d\_\_\_ [Per Curiam opn, decided herewith]).

TITONE, J.P., GIBBONS, WEINSTEIN and RUBIN, JJ., concur.

March 5, 1984

SASSOWER v SIGNORELLI

1281 E

1556S  
X/jl

VITO J. TITONE, J.P.  
DAVID T. GIBBONS  
MOSES M. WEINSTEIN  
ISAAC RUBIN, JJ.

AD2d

A - January 10, 1984

1280 E

George Sassower, et al.,  
appellants, v Ernest L.  
Signorelli, respondent.

George Sassower and Doris L. Sassower, White Plains, N.Y.,  
appellants pro se.

Robert Abrams, Attorney-General, New York, N.Y. (Jeffrey I.  
Slonim, Melvyn R. Leventhal and Caren S. Brutton of  
counsel), for respondent.

Order of the Supreme Court, Westchester County (COPPOLA, J.),  
entered January 21, 1983, affirmed insofar as appealed from, with  
costs.

OPINION PER CURIAM.

TITONE, J.P., GIBBONS, WEINSTEIN and RUBIN, JJ., concur.

March 5, 1984

SASSOWER v SIGNORELLI

1280 E



APPENDIX D

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

11/18/78

Pl's Demand  
for B/P

-----x  
GEORGE SASSOWER,

Plaintiff,

Index No.  
10726-1978

-against-

ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI,  
VINCENT G. BERGER, JR., JOHN P. FINNERTY,  
ALLAN CROCE, ANTHONY GRZYMALSKI, CHARLES  
BROWN, HARRY E. SEIDELL, NEW YORK NEWS,  
INC. and VIRGINIA D. MATHIAS,

Defendants.

-----x  
S I R S:

Plaintiff hereby demands that within ten days, you  
serve and file a verified bill of particulars with respect  
to defenses set forth in your (HOWARD E. PACHMAN, Esq.) verified  
answer.

1. Set forth a true copy of any judgment and all other documents relied upon for the alleged defense of "res judicata".
2. Set forth a true copy of any judgment and all other documents relied upon for the alleged defense of "collateral estoppel".
3. As to each and every defendant set forth their position and title (and dates thereof) with sufficient specificity for determining whether a Notice of Claim is and was required.
4. As to each and every allegation complaint of in the complaint set forth the "culpable conduct" of plaintiff claimed to have caused his alleged injuries and damages, when and where it occurred, the persons involved, and the manner it relates to plaintiff's injuries and damages.
5. With respect to the "Fifth Affirmative Defense" set forth who, how, and the portions of the body that "plaintiff first assaulted and struck" and the injuries caused thereby.

6. With respect to such defense set forth the force employed and identify the person inflicting same.

7. As to all acts complained of separately set forth the "duties and responsibilities" of the "police officers and deputy sheriffs" at each occasion.

8. As to all acts complained of separately set forth the persons who imposed such "duties and responsibilities" upon the "deputy sheriffs" involved.

9. As to all acts complained of separately set forth the basis for each defendant believing that he was exercising his "statutory and constitutionally inherent power".

10. Set forth the force employed by the defendants as alleged in paragraph "Nineteenth" of the verified answer.

11. As to all acts complained of separately set forth any and all inquiries made by each of the defendants prior to the conduct complained of in order to ascertain the legality of their actions and the results thereof.

Dated: November 18, 1978

Yours, etc.,

GEORGE SASSOWER, Esq.  
Attorney for plaintiff-pro se.  
75 Wykagyl Station  
New Rochelle, New York, 10804

To: HOWARD E. PACHMAN, Esq.  
LOUIS J. LEFKOWITZ, Esq.  
TOWNLEY & UPDIKE, Esqs.  
JAMES MARSCH, Esq.

APPENDIX E



SUPREME COURT, STATE OF NEW YORK  
SPECIAL TERM, PART I, SUFFOLK COUNTY

1/23/79  
CO AS B/P

-----X  
GEORGE SASSOWER,

Index No. 78-17671

Plaintiff,

- against -

BILL OF PARTICULARS

ERNEST L. SIGNORELLI, et al.,

Defendants.  
-----X

Defendants ANTHONY MASTROIANNI, JOHN P. FINNERTY, ALLAN CROCE and ANTHONY GRZYMALSKI, by their attorney HOWARD E. PACHMAN, Suffolk County Attorney, ERICK F. LARSEN, of counsel, for their bill of particulars pursuant to the demand of the plaintiff, state as follows:

1) Defendants will rely upon any and all final State and Federal judgments between the parties which have or will be entered prior to final judgment herein. Such judgments include, but are not limited to:

a) Sassower v. Signorelli, et al., U.S.D.C.E.N.Y. (Index No. 77-C-1447, September 20, 1977, Chief Judge Mishler);

b) Sassower v. Signorelli, et al., U.S.D.C.E.D.N.Y. (Index No. 78-C-124, April 20, 1978, Chief Judge Mishler);

c) Sassower v. Signorelli, et al., U.S.C.A. 2d Cir. (Docket No. 77-7511, December 19, 1978, Friendly, Mansfield and Meskill).

2) Answer same as "1," supra.

3) Anthony Mastroianni: Presently and at the time of this occurrence, Public Administrator of Suffolk County;

John P. Finnerty: Presently and at the time of this occurrence, Sheriff of Suffolk County.

Allan Croce: Presently and at the time of this occurrence,  
Deputy Sheriff of Suffolk County;

Anthony Grzymalski: Presently and at the time of this occurrence,  
Deputy Sheriff of Suffolk County.

4) The culpable conduct of the plaintiff consisted of: a) intentionally and repeatedly disregarding the lawful mandates of the Surrogate's Court of Suffolk County; b) failing to submit to a lawful arrest; c) resisting lawful arrest; d) assault, battery and defamation of arresting police/sheriff officers; e) failure to follow the lawful orders and instructions of a police/sheriff officer; f) creation of a public and private danger by attempting to open the door of a moving Sheriff's vehicle; g) extending his body and leaning out the window of a moving Sheriff's vehicle; h) yelling and screaming falsities out the window of a moving Sheriff's vehicle; i) attempting to remove or displace handcuffs; j) causing a disturbance in the Suffolk County Correctional Facility; k) any other culpable conduct which further investigation or discovery may disclose which will be set forth in an amended bill of particulars.

5) Plaintiff intentionally and repeatedly used his legs and feet to strike Deputy Sheriff Grzymalski in the stomach and groin.

6) Incomprehensible.

7) All duties, responsibilities and mandates imposed by law as will be charged by the Court.

8) New York State law.

9) Defendants base their belief on New York State law and, more particularly, the aforementioned decisions of the Federal Courts, including the U. S. Second Circuit Court of Appeals.

10) That force reasonable and necessary to effect an arrest of a person physically resisting such arrest.

11) Incomprehensible.

Dated: January 23, 1979  
Hauppauge, New York

TO: GEORGE SASSOWER, Pro Se  
75 Wykagyl Station  
New Rochelle, NY 10804

HON. LOUIS J. LEFKOWITZ  
Attorney General of New York  
Attorney for Defendants  
Seidell and Mathias  
2 World Trade Center  
New York, NY 10047

JAMES MARSH, ESQ.  
Attorney for Defendant Berger  
P. O. Box 290  
6351 Jericho Turnpike  
Commack, New York 11725

TOWNLEY & UPDIKE, ESQS.  
220 East 42 Street  
New York, NY 10017

STATE OF NEW YORK, COUNTY OF SUFFOLK

ss.:

The undersigned, an attorney admitted to practice in the courts of New York State,

Certification By Attorney certifies that the within has been compared by the undersigned with the original and found to be a true and complete copy.

Attorney's Affirmation shows: deponent is

Check Applicable Box

the attorney(s) of record for in the within action; deponent has read the foregoing and knows the contents thereof; the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true. This verification is made by deponent and not by

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated:

-----  
The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF SUFFOLK

ss.:

Individual Verification

Anthony Grzymalski

the defendant

the Bill of Particulars,

being duly sworn, deposes and says: deponent is

in the within action; deponent has read

the foregoing and knows the contents thereof; the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters deponent believes it to be true.

Corporate Verification

the a

of corporation,

in the within action; deponent has read th

and knows the contents thereof; and the sam

is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true. This verification is made by deponent because

is a corporation and deponent is an officer thereo

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

Sworn to before me on

15/ JAN. 23 19 79

-----  
15/ The name signed must be printed beneath

IRENE M. SALVO  
NOTARY PUBLIC, State of New York  
No. 52-3437165 - Suffolk County  
Term Expires March 30, 1979

STATE OF NEW YORK, COUNTY OF SUFFOLK

ss.:

being duly sworn, deposes and says: deponent is not a party to the action

is over 18 years of age and resides at

Affidavit of Service By Mail

On

19

deponent served the within

upon

in this action, at

the address designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a post-paid properly addressed wrapper, in a post office - office depository under the exclusive care and custody of the United States Postal Service within the State of New York

Affidavit of Personal Service

On

19

at

deponent served the within

upon

person so served to be the person mentioned and described in said papers as the person herein, by delivering a true copy thereof to personally. Deponent knew there

Sworn to before me on

19

-----  
The name signed must be printed beneath